

THE  
Grand Case

Of the present  
MINISTRY.

· WHETHER  
They may lawfully *Declare*  
and Subscribe, as by the late *Act* of  
*UNIFORMITY* is required.

AND  
The several *Cases*, thence arising (more  
especially about the *COVENANT*)  
are clearly Stated, and faithfully resolved.

With an *Addition* to his former *CASES* of  
*CONSCIENCE*, hereunto Subjoyned.

By the same *Indifferent Hand*.

*Love worketh no ill to his Neighbour: therefore*  
*Love is the fulfilling of the Law, Rom. 13.*

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ster-Hall 1663.

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THE  
PREFACE

TO

*My Dissenting Brethren.*

1. **A** Man may be *Felo de se*, by destroying himself, *by our Law*; and *Fur de se*, by depriving and *Stealing* himself away from him to whom his *Service* is due, by the

Gen. Res. 13 May 1844

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*Imperial Law* : and *proditor de Se*, by the Law of Nature, if he descend from the Dignity of Humanity, and submit to the Danger which he might avoid. These are the words of the very Learned Doctor *Donn*, against the *Jesuitical* ambition to suffer : and, with all my heart, I wish, they were not in all particulars, too too pertinent to our present Case.

2. For an *Opinion*, that we are our own Lords, and may dispose of our selves, for the glory of God, as we please, precipitates, not only

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only *Jesuites*, but the *zealous* of all professions, to forsake *themselves*, and to quit their *Duties*, with a strange *prodigality* of their *Lives* and *Fortunes*.

3. But it is, verily, a great *Mistake*; for we are not *our Own*: our *Persons*, our *Parts*, our *Estates*, and *Capacities*, they are *Gods*, the *Kings*, the *Churches*, and our *Wives* and *Friends*: and to all of these, in a several *respect* and *proportion*, we are justly *accountable* for *them*.

4. It was a *Monstrous* kind of *wantonness* in those

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*Women, Gellius speaks of, that so long plaid with their own Lives, till they had brought it up for a fashion, to kill themselves.*

5. And yet it should seem, that it is even *Natural* for men of *Stomack*, to value a *Name*, above *Life*; for the very *Heathen*, tempted with honour and *vain-glory*, (and some times with *ease*, and a desire to be freed from present *Inconveniencies*) how familiarly did they kill themselves?

*Arist.  
Ethic.lib.  
3. 6. 7.*

6. Whereupon, it is observed, that *such* as labour-  
ed for *publique* preservati-  
on,

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on, did oppose themselves to this strange Corruption, by endeavouring to Convince the World, that there is nothing more base and cowardly then to destroy ones Self.

7. The Emperours also in their Laws and Constitutions had Remedies against it: not only by Forfeitures, but Infamy it self, to remove, if possible, the Temptation of glory.

8. Yea, as if the Self-denial of Christianity were too weak to encounter it, we read of a Law in the Earldom of Flaunders to the

A 4      same

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same purpose ; in which, this *destroying of ones self*, is counted with *Treason, Heresie* and *Sedition* : and do not our *own Laws* Reckon it, not onely *Man-slaughter*, but *Murther* ? yea, as a thing hardly standing with the *truth* of our Profession, as *Christians*, the *Canons* of the *Church* are set against it, denying such persons *Christian Burial*.

2. Amongst *Christians*, *Bellarmino* (by way of reproach, indeed, to his Adversaries) hath this *Gradation* in his *Observation*, wherein he placeth the  
worst

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~~worst~~, first. To suffer, saith  
he, ~~the~~ *Anabaptists* are for-  
wardest, the *Calvinists* next,  
and the *Lutherans* very slack.  
And if it may be no offence  
to my Brethren, we may ea-  
sily note ; that with us, the  
*Quaker* is forwardest, the *A-*  
*nabaptist* next, the *Indepen-*  
*dant* next, and the *Presbyteri-*  
*an* last, (no disparagement to  
him, though all too forward)  
in exposing themselves to  
needless sufferings.

10. And now, my Bre-  
thren, if this *Witness* be true,  
and the *premises* cannot be  
denied ; let us begin to think  
with our selves, what it is,  
that

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that doth *warrant* and justify  
*Sufferings*, and constitute  
*Martrydom*,

11. Certainly, if *propense-  
ness* to suffer makes the  
Martyr, the *Anabaptist*, the  
*Quaker*, yea, the *Jesuite* and  
the *Heathen*, the *Lunnatick*  
and the *Mad-man*, even such  
as have neither *Grace* nor  
*Reason* are far before you.

12. We must conclude,  
that *nothing* can prefer the  
*Sufferings* of *one Way* or  
*Party* (be it the *Sobereſt* in  
the World) to an higher *E-  
ſtimation* or *Reward*, then  
*another*; or indeed, ſecure  
it from the offence of God,  
our



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our Neighbour, and Self-Mur-  
ther, but the *Justnesse* of the  
Cause.

13. Yet if the Cause be  
*Just*, except the *Intention* be  
right too, we fail of *Martyr-  
dome*: it is not the falling with  
a beloved party, the satisfy-  
ing the humour of a multi-  
tude, the preserving a Name  
with *Male-Contents*, the an-  
swering our own *Idea* of  
*Conveniency*, much lesse, a  
being revenged upon a Go-  
vernment we hate, that  
makes a Martyr. 'Tis nei-  
ther the *Intention* without  
the Cause, nor the Cause  
without the *Intention* shall  
win

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win and wear this *Crown* ;  
Though I bestow all my goods  
to feed the poor ; yea though  
I give my body to be burned,  
and have not charity, it profiteth me nothing.

14. Again, Admit the  
*Cause* and the *Intention*  
both were right : yet, there  
is another way to frustrate  
the hopes, and lose the *Reward*  
of *Martyrdome* : for  
there must be a fit occasion  
too, *Necessitating* the *Sufferings*  
which God approves.  
A *Learned* Man, against that  
*Jesuiticall* fury of daring  
the *Magistrate*, assures us,  
that the *Right Martyrdome*  
perish-

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*perisheth upon this ground (among others) that he which refuseth to defend his life by a lawful act, and entertaineth not those overtures of Escape, which God presents him, destroyes himself.*

15. There is a *Golden Mean* (worth a *Golden Mine*) fitly illustrated by the *Law* of the *Roman Army*, *Ius Legionis facile, non sequi, non fugere* : Neither to pursue persecution, with a Neglect of our *Safety* or *duty* : nor to run away from it, with apparent hazard of *Gods* glory.

16. Indeed, our *Supream*  
Lord

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Lord sometimes calls for our *Goods*, our *Liberties*, and our *Lives*, in witness to his Truth : yet, though he allows our *Affection* to himself a *channel* to Run in, even to *Death*, when he requires ; he, by no means, indulgeth that *Heathenish Corruption* of destroying our selves . When God calls we are bound to suffer, and to suffer *cheerfully*, and willingly, and readily, but never *Spontaneously*, or to have a *hand* in our *own Blood* ; either by *provoking* our own Ruine , or suffering for our *own Cause*, or being  
our

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our own Executioners. This is to throw away the Talent lent us; which ought thus onely to be spent, when it may not be improved any other way for our Master's use.

17. To suffer for Christ and the Gospels sake is indeed a favour from Heaven: to you it is given, in the behalf of Christ, not only to believe, but to suffer for his sake; but mark, it must be for his sake, and on his behalf, and given too by God, in the course of his providence; not snatcht or stolne by our own Rashnesse and hast-

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hastning the *Occasion* and *Execution* of it.

18. *God* hath been pleased to set down in *Scripture* the *Grounds* and *Causes* upon which he *Calls* : and we may and must *submit* to sufferings : and to *shrink*, when fairly *called*, or *run* upon sufferings, when not *called*, the *first*, is, to *crucifie* *Christ* in his *Cause*; and the *last*, is, to *crucifie* *Christ* in *our selves*; but to be *crucified* for *Christ*, is to *suffer* with him, that we may be also *glorified* together.

19. Give me leave, my dear *Brethren* (for whom I, truly,

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truly, *travel in Birth*) without offence to be plain with you, in a few words of serious advice, seasonably *inferred* from *these* Considerations; which my hearty affection and faithfulness to you, and this poor Church, will not suffer me to omit, & I shall cease to trouble you.

1. Let me beseech you to suspect that natural Corruption, which, upon Ambition, Discontent, and Temptation of Credit and Glory in the World, is prone to hasten you, in this Crisis of distemper, to unwarrantable Sufferings.

B

2. Take

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2. Take heed of being *Hurried to suffering*, with the Motion of the *Multitude*, or by the fond persuasion of an *implicite faith*, or dependance upon the *principles and examples of others*; whose *Temptations*, haply, may be greater than *yours*; and yet, if you follow them, their *sufferings* may be *less*. Yea, it is possible, and worthy to be heeded, that *others* may tempt you to follow them into *that Condition*, wherein you, indeed, may suffer *for them*, and yet *they not suffer with you*.

3. Therefore, having the  
glory



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glory of *God*, the prosperity of *Sion*, the peace of the *Nation*, the progress of the *Gospel*, the Salvation of *Souls*, the fulfilling of your *Ministry*, and provision for your *Selves* and your severall *Families* before your eyes; let *nothing* tempt you from *all* these, that amount to no more then the pleasing and gratifying an *Espoused party*, that resolves to be *Angry*: for, against *all these*, I can see no reason, why you should resemble that *Spelunca Hienæ*, which the *Prophet* complained of; that is a *fish* (as Saint

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*Chrysostom* observes) that hath but *one back-bone*, and cannot turn, except it turn *all at once*.

4. Above all, take heed of displeasing *Christ* by pleasing *your selves* or *friends*; of provoking him to forsake you in your sufferings, by dissembling to suffer for him when you know you do not; or when, indeed, you do not, and you think you do.

To suffer the loss of all in pretence for *Christ*, and, therefore to suffer the loss of *Christ* too, this is suffering indeed, What can more  
imbitter

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*im*bitter our sufferings, then to have the punishment of *loſſ* temporal ſeconded with the punishment of *pain* *Spi-ritual*? and our diſſembled ſufferings for *Chriſt* rewarded with our *real* ſufferings from him; with a, *Who* hath required theſe things at your hands?

5. Remember the great end of our *Life* and *Cal-lings*, of our *Stations* and *Relations*: we are not ſent into the world properly to ſuffer, but to do, *viz.* to perform the *Offices* of *Society* required of us in our ſeveral places.

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2. The way to Triumph was not (of old) to be slain in the Battel, but to have kept the Station, and done all Military duties: let us stand fast, and not be shaken or moved with the blasts of envious reproaching, or flattering words. Let not small encounters of apprehended inconveniences make us flie, or quit our duties.

3. Let us fulfill our Ministry begun: and Run the Race that is yet before us, with patience and perseverance, to the end, despising the shame, as our fore-runner did, who may call us also to follow

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follow his steps, as well through evil as good Report; Yielding him Sweat in the Harvest of our Calling, and not our Blood till he Calls for it.

6. Pythagoras his Scholars were to suffer themselves to be slain, rather then to stir their foot and tread down a Bean; and Jarvice, the Priest, in King James his dayes, though he had publicly declared before, that it was lawful to take the Oath of Allegiance, yet he would die in the refusal of it, because it seemed not Expedient to him to take it then.

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2. Ah! my Brethren, is there, indeed, no greater *Latitude in Christian Liberty*? must we needs venture all upon a point of *Indifferency*, or meer *Expediency*.

I dare not *Determine* how far a *Divine positive Law* loseth its hold and obligation in Case of *Just fear* or *Necessity*; yet, when we see nothing in the things enjoined that is against the *Law of Nature*; and when there is no *Rule* to be found against them in the holy *Scripture*; yea, when the Case is *such* as indeed ours is,

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is, that neither the primitive nor the Reformed Churches disallow of Conformity; 'Tis evident, that at most, there is ground of Scruple onely of the lawfulness; there can be no Knowledge of the unlawfulness thereof.

3. Now in such a Case, Conscience cannot prohibit Conformity (though very much is still pleaded from it) for indeed, in accurate Speaking, it is not Conscience that doth properly bind at all, but that Law which Conscience takes Knowledge of, and presents to our Understanding.

And

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And if the *Law* be not clear in it self, or if *Conscience* take not a full or clear *Knowledge* of the *Law*, especially if there be no *Law* at all in the *Case*, we have no *Knowledge* to *Enlighten* and *guide* our *Conscience*, we are in *Ignorance*, in *Doubts*, or in *Scruples*; and the *Law* of *Conscience* doth not now *dictate* to us what to *do* or *Suffer*; and if, in such a *Case*, we *choose* to *Suffer*, we may not say, we suffer for *Conscience*: I did it *Ignorantly*, not *Conscientiously*, saith the great *Apostle*.

Hence a *Learned* *Divine*  
(in



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(in confutation of the *Jesuits suffering zeal*) concludes, that where God hath afforded us *no way* of attaining to *Certain Knowledge*; though a man may have some *such Knowledge or Opinion* as may sway him, in an *Indifferent Action*, by *Reasons of Conveniency*; or with an *Apparent Analogy* with *other points* of *more evident Certainty*; yet, no man may *Suffer* any thing for *these points*, as for *his Conscience*: because, though he lighted upon the *Truth*, yet it was not by any *Certain Way* which God appointed

Dr. Den,  
pseudo. p.  
238.

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pointed, for a *Constant* and  
*Ordinary* means to find out  
that Truth.

6. But lest I enlarge be-  
yond the bounds of a *Preface*;  
In short, O that my  
brethren would soberly ask  
themselves, what that  
means, I will have mercy  
and not Sacrifice? is there  
no such thing as self-deniall,  
in parting with our own  
Wills? is no apprehended  
Inconvenience to be born for  
the discharge of our Trust  
to God and men? is no-  
thing tolerable that is not  
best? or is nothing to be  
yielded out of charity and  
pity

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pity to the Church and State, Our selves and Families?

Are the Talents of our Offices, our Gifts, and our opportunities of doing good, at our own disposal? are the shrieks and cries of the Souls of our people, of our wives and children hanging upon us, easily answered, or the importunity of Friends, the Reasonings of Brethren, the perswasions of all the Eminent forreign Reformed Divines, the Authority of long continued Custom in our own Church, or the Laws of the Land, can all these no-  
thing

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thing prevail? What shall we say to these things? if it be sinful to conform, declare wherein: if not, but some smaller matter hinders us; I cannot but remember then, that he that died of the Bite of a Weasell, lamented that it was not a Lyon.

I speak as unto Wise men, Judge ye what I say; and the God of Truth and Peace be with you. Amen.

THE



# THE Grand Case.

*Whether it be lawful to declare, as is required by the late Act, Entituled an Act for the Uniformity of Publick Prayers, &c.*

## Resol.

**I** Fear, there are *some* that question the very *lawfulness* of the Book of *Common-prayer* : so few sheets of paper may not be thought to attempt so great a *Task*, as *their* satisfaction.

Yet, hearing that many *Moderate Brethren* do now *check*, who had resolved to conform, had not these *Declarations* been required, out of my tender affection to them, as also my desire of the good of the Church (which, I cannot but believe, may be much advanced through their  
Con-

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*Conformity*) I have taken this encouragement, to offer my reason, why I conceive that such Ministers as could otherwise have conformed, may lawfully declare in order thereunto, as by the said Act is required.

That we may distinctly, and thoroughly judge of this weighty point, we shall set before our eyes both the Declarations in their own words (for there are two of them) the first we have in page 73. and the other in page 77. of the Act as it is now Printed. They are as followeth.

The first is thus.

**I** A.B. do here declare my unfeigned Assent and Consent to all and every thing contained and prescribed in and by the Book Entituled, The Book of Common-Prayer and Administration of the Sacraments, and other Rites and Ceremonies of the Church, according to the use of the Church of England; together with the Psalter, or Psalms of David, pointed as they are to be sung or said in Churches; and the Form or Manner of Making, Ordaining, and Consecrating Bishops, Priests and Deacons.

The second is thus.

**I** A. B. do declare, that it is not lawful upon any pretence whatsoever to take Arms

*Arms against the King, and that I do abhor that Traiterous position of taking Arms by his Authority against his person, or against those that are Commissionated by him: and that I will conform to the Liturgie of the Church of England, as it is now by Law Establsed. And I do declare, that I do hold there lies no Obligation upon me or on any other person, from the Oath commonly called the Solemn League and Covenant, to Endeavour any Change or Alteration of Government, either in Church or State; and that the same was in its Self an unlawful Oath, and imposed upon the Subjects of this Realm against the known Laws and Liberties of this Kingdom.*

These are the Declarations: we proceed to consider each of them, in their several Branches. Touching the first, the Case is.

### CASE I.

*Whether it be lawful to Declare in the Words of the first of these Declarations?*

Resol.

**T**HIS Declaration hath two branches.

The first is about the Liturgy; the last, about the Book of Ordination.

C

I. Touch-

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1. Touching the *Liturgy*, we are to declare in these words. *I do here declare my unfeigned Assent and Consent to all and every thing contained and prescribed in and by the said Book, Entituled the Book of Common-Prayer, &c.*

1. Touching the *Book of Ordination*, we are to declare in these words: *and the Form or Manner of making, ordaining and consecrating of Bishops, Priests & Deacons.*

3. Now give me leave to ask, what can possibly render it unlawfull for such as can conform without it (for such I deal with) thus to declare?

4. As for the latter branch, touching the *Form or Manner of Making, Ordaining, and Consecrating Bishops, Priests and Deacons*; this most that have *Living*s have *Subscribed* already at their *Ordination*, and read their allowance of, openly, to their several *Congregations*, upon their *Induction*: besides, had not this been required in the *Act*, who knows not that no *Conformity* without *subscribing* and *reading the Nine and thirty Articles*, in one of which we declare the same, could legally suffice? Yea, who sees not the weakness of such a pretence of future conformity;



formity, if *this* part of the Declaration had not been required; which indeed is no *new* thing, nor such, as any one without self-abuse or self-delusion could possibly expect should not *still* be required; or (truly I think) without dissimulation or abuse of the world, could say, they intended to have conformed, had not *this* been required?

5. But I perceive, the *first* part of the Declaration, touching the Liturgie, bears the greater burthen of exception.

The words are, *I do here declare my unfeigned assent and consent to all and every thing contained and prescribed in and by the Book, Entituled the Book of Common-Prayer, &c.*

6. But did you indeed intend to have conformed, had not this Declaration been required, what can hinder you *thus* to declare? viz. that you do assent and consent to that which your selves did intend to practise? and that *this* your assent and consent to your own intended practice is not Hypocritical, but unfeigned? certainly, that is *all* that is here required.

7. Perhaps the long Title of the Book affrights us. But if *there* be more than in

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the *Book*, we have nothing to do with *that*; for we are only to declare for every thing contained in the *Book*: but if there be not, then we that embrace the *substance* have no reason to be scared with the *shadow*; or to scruple at that in the *Title*, which we can use in the *Book*.

Object. I.

It is Objected, that there are several expressions in the *Book of Common-Prayer*, that though we could safely read them, yet we do not so heartily like and approve them, as we seem to be required to declare.

Answer.

1. Do not force an *Edge* upon the words, to wound your selves. Look well upon the *Declaration*, and you will find that the object of your *assent* and *consent* is not the words, but things; not every word, but every thing; not every thing as there expressed, but every thing contained in the expressions, and prescribed in and by the *Book of Common-Prayer*.

2. Yet, if you can conform to the *Book*, I hope you can read the words: and if so,

so, I hope you can assent and consent *unfeignedly* to the *lawfulness* of the *Action* which your selves perform; and *this* is *all*, as more fully I shall shew presently, that is here required of you to declare. *Object. 2.*

But though we can *use* the *things*, yet it is only for *peace sake*, and *obedience* to Authority, &c. and not because we would *chuse*, or can *absolutely* approve of the things *in themselves*.

*Ans.* We may approve a thing *absolutely*, as is hinted in the Objection, and *comparatively* or *respectively*.

1. That we should *absolutely* approve of every thing contained in the *Book of Common-Prayer*, as that which we would *chuse* above all other, and as *best* in it self; we cannot, either with *charity* to our selves, or our *Governours*, or with any colour of *reason*, conceive to be the *intention* of the *Declaration* required. Seeing, it is a *moral impossibility*, that all men, in so many particulars, and various circumstances, should be *exactly* of one mind. And seeing much less will serve the ends of Government, and the design of the *Act* for Uniformity.

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2. It is therefore a *comparative* or *relative* approbation, that is here required: or rather, in the milder words of the Act, *assent* and *consent* the grounds thereof, are not specified in the Act, but left to our selves; and whatsoever the grounds and motives are, if they are *effectual* to prevail upon us, to *assent* and *consent* *unfeignedly* to the Book of Common-Prayer, our Governours expect no more; for their Act hath its end.

3. That we are left free to compare the effects and consequences of our Conformity and Non-conformity, of obedience to the Act, and our disobedience; and if we can but comparatively, approve of Conformity, that is, with respect to its *conveniencies*, above Non-conformity; and consequently, of every thing to be conformed to upon the like grounds, we may safely declare our assent and consent to the same, in the sense of the Act.

4. For doubtless, our Governours intended we should use those means they offer us for the same end themselves proposed. Seeing therefore, by the Act, they intend, and require Uniformity; and seeing also, that they threaten such

as

as will not thus assure them that they will conform, with the loss of their Livings, &c. And lastly, seeing all such penalties are annexed to Law, on purpose to move us to active Obedience; what remains, but that we are allowed thus to reason. Here is such a Declaration required by Law, and such a severe penalty annexed, for all that disobey it: though I could rather have liked the Book of Common-Prayer, if such and such things had been altered; yet rather then lose my Living, and therewith all legal Opportunity of serving the Church, rather then shew my self cross and disobedient to Authority in lawful things; rather then ruine my self and Family for a thing indifferent, though in it self I judge it is inconvenient: I do chuse to be obedient and conformable; and in order thereto, upon these grounds I declare my assent and consent unfeignedly to every thing to be Conformed unto.

5. Indeed, had the word [Free] been in the Act instead of. [Unfeigned] there had been more colour of this Objection.

Therefore, out of a vile Design, I fear, of some Male-content, that can

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more freely consent to our common Calamities, then our common Prayers; it is buz'd up and down, perhaps not without feigning, that our Free assent and consent is required. And that thus we are to declare, that we *chuse* these things for *themselves*, and of our own accord. Whereas the word *Free* is not at all mentioned, and so the whole ground of the exception faileth.

6. But for the perfect removal of any such scruple for ever, let the *Act* interpret it self. The words immediately foregoing this Declaration, are these, Every Minister—shall declare his *Unfeigned assent and consent to the Use of all things in the said Book contained and prescribed, in these words, and no other; they are the words of this Declaration.*

Mark, we must declare our Unfeigned assent and consent. To *what*? not simply to all things, but to all things with respect to their *use*: to the use of all things in the said Book. But in *what words* must we declare for the *use* of all things in the said Book? in these words, and no other; and they are, as was said, the words of the Declaration.

7. The

7. The plain meaning of the *Ad* appears, therefore, to be but this: while we declare, in these words, viz. of the Declaration, we do but declare our unfeigned assent and consent to the use of *Common-prayer*: which if we can lawfully use, we do but declare, that if we do conform, we do nothing against our consciences: or, that we do unfeignedly assent and consent to the use of that which we our selves either do, or can use.

And, as if our *Governours* had purposed to make this their meaning as plain as the *Sun*, they have at least twice more given us the same interpretation of these words. In page 74. such as are hereafter inducted must declare their unfeigned assent and consent. To what? why, to the use of all things therein; that is, in the *Book of Common-prayer* contained and prescribed. But how and after what manner? why, according to the *Form before* appointed; that is, in the *Declaration*. The like we have again, page 83.

9. Of that which hath been said this is the *Summ*; the *Ad*, in this first Declaration

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claration requires, that we declare our unfeigned assent and consent to the use of every thing in the Common-prayer, and the Form of Making, Ordaining, and Consecrating Bishops, Priests, and Deacons. We suppose the brethren we now reason with to have purposed to use the Book of Common-prayer, had not these Declarations been required: and the Form of Making Bishops, Priests and Deacons, they have, nor must have subscribed, and read their assent and consent unto it, had this Declaration never been required. Therefore I hope there is no thing of Conscience remaining in these my brethren, to check any longer at this Declaration. I shall therefore passe on unto the other.

### CASE II.

Whether is it lawfull to declare in the words of the second Declaration?

Resol.

1. **W**Hen Alcibiades, a young Gentleman of Athens, was afraid to speak before the Multitude, Socrates,



to put him in heart, ask'd him, fear you such a one? and names *one* of the Multitude to him; no, saith *Alcibiades*; he is but a *Trades-man*; fear you such a one; saith he? and names a *second*; no, for he is but a *Peasant*; or such a one? and names a *third*; no, for he is but an ordinary Gentleman. Now, saith *Socrates*, of such as these doth the whole Multitude consist.

2. I confess, there are an heap of several things required in this second Declaration. And perhaps, their multitude may somewhat scare us. Yea, hence, I have reason to believe, that some are offended that hardly ever read, much less examined the particulars of it.

3. But be not afraid, draw near, and take the Declaration into its parts, and consider of them *one by one*: its possible they may not be so *Formidable* as we are apt of our selves, or as others would have us to Fancy. Its possible we may thus receive encouragement, with *Alcibiades*, and find a way to escape the Temptation.

This Declaration concernes three general heads; Taking Armes against the King, Conformity to the Liturgy; and the Oath, called

called the Solemn League and Covenant.

5. In the first part of this Declaration, concerning the *taking Armes* against the King, we are required to declare; First, that it is not lawful upon any pretence whatsoever to take Armes against the King. Secondly, that we abhor that Traiterous position of taking Armes by the Kings Authority against his person, or against those that are Commissionated by him. Accordingly there arise two cases.

VIII

## CASE III.

*Whether it be lawful for us to declare, that it is not lawful upon any pretence whatsoever, to take Armes against the King.*

Resol.

1. **E**ither it is lawful to take Armes against the King, or is it not: if it be granted that it is not, what should hinder us from declaring it, when by Law (as now we are) called to do it? but if it should be thought lawful, I must demand by what Law?

2. 'Tis but a *subterfuge* to speak of the Law of Nature, while the Law of  
Scripture

*Scripture* and the Law of the Land have undertaken the Case.

3. Now, what saith the *Scripture*? surely it gives not the least colour of encouragement for it, except *Obedience* and *Submission*, and that for conscience, and the Lords sake, be taking *Armes*.

4. Again, if the *Scriptures* may be thought too *General*; let the *Laws* of the Land be examined. I question not whether they were not sufficiently plain in the Case before: yet now, certainly they are above all Contradiction or doubt. I mean, by the late *Act* for the Safety of the Kings person, where we may learn in the plainest manner, that it is *Treason* and *Rebellion*, and unlawful enough upon any pretence whatsoever, to take *Armes* against the King.

5. Such as I now deal with do, at the most, onely doubt, whether according to the constitution of this Kingdom, the two Houses are not a power co-ordinate with the King: and the King and his two Houses being at variance, whether they might not side with the Parliament, even to the taking *Armes* against the King: but if this were a doubt before, it

*The present Case*

it is not possible it should remain so full,  
all colour of it being wiped away,  
and that Controverſie as perfectly de-  
termined as an Act of King, Lords and  
Commons, can poſſibly do it: as appears  
in the Act forementioned, for the ſafety  
of the Kings perſon.

## CASE IV.

*Whether it is lawful to declare, that we  
do Abhor that Traiterous poſition  
of taking Armes by the Kings Authori-  
ty againſt his perſon, or thoſe that are  
Commiſſionated by him?*

Anſw.

1. IF this be indeed a Traiterous poſi-  
tion, who doubts but that every  
true Subject is bound to abhor it? and  
being lawfully called thereunto, ſo to  
declare.

2. That this is a Traiterous poſition, I  
need not ſay more then what I juſt now  
ſaid, in answer to the laſt Caſe. Name-  
ly, that however it came to be diſputed  
before

before, it is now plainly determined to be so by the said Act for the safety of the Kings person; and it being declared by Law to be a Traiterous position, it ought so to be reputed: and by this Law also, it being so required of us, it ought to be declared against, and abhor'd accordingly.

3. So much may briefly suffice for the first general in this Declaration. The second, touching Conformity, offers now to be considered. This we shall passe with a quick dispatch, that we may hasten to our main design, the discharge of the Covenant.

The Case about Conformity, in short, is this.

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CASE V.

*Whether we may lawfully declare, that we will conform to the Liturgy of the Church of England, as it is now by Law established?*

Resol.

1. **F**irst, it seemes there is no longer any ground of doubt, whether the Liturgy be established by Law, i. e. the Law of the Land.

2. Se-

## The present Case

2. Secondly, neither have we any reason to question, whether it be against the *Law of God*, seeing our Brethren, whom we are now treating, are supposed to acknowledge, that they would have conformed unto it, had not these Declarations been required; which I know they would not have done, had they thought it to be contrary to the *Law of God*.

3. What then can obstruct *this part* of the Declaration, with brethren so well prepared for it? this only calls them to pass their former intention to conform into a promise that they will do so: and to declare that, for the satisfaction of *Law and Authority*, they will do that which they acknowledge they can do with satisfaction to themselves: and which, also, they confesse they would have done, had not they received this Dissatisfaction from the Declaration; which yet we see vanisheth before us.

### Of the Covenant.

1. **B**Ut the great Mountain is yet to be removed: some say, they are called to declare against, and to renounce

renounces the Covenant: or as some that would scare themselves and others from Conformity, to abjure and to unsweat the Covenant: and this, they complain, is too hard for them, they cannot do it.

This is I, confess, a very tender point, yet such, I hope, as the most tender Conscience need not fear to be pricked with it, if warily handled. I mean, if we be not frightened away from it, or stand not at too great a distance: but with a sound and impartial judgement draw neer unto it, and look well upon it, and consider after what manner, and in what words, we are indeed required to declare against the Covenant.

2. Under this head, there are three members of the Declaration touching the Covenant. Something is to be declared against its Obligation. Something against its lawfulness in it self; and something against the lawfulness of its imposition.

3. We proceed to weigh them one by one, with all seriousness and fidelity, in a particular examination of the three cases that offer themselves in the very words of the Declaration.

D

The

*The present Case*

The first, touching the *Obligatory* force of the Covenant, is in the Declaration apparently limited to the *alteration* of *Government*, and is this:

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## CASE VI.

*Whether we may lawfully declare in these words; I do hold there lies no Obligation upon me or any other person from the Oath commonly called the Solemn League and Covenant, to endeavour any Change or alteration of Government either in Church or State.*

## Resol.

**M**Ethinks, it is no great venture to say, that such as have taken the Covenant may lawfully declare that they hold, that neither themselves, nor any person is bound by the Covenant to endeavour a change of Government in Church or State.

We



We are agreed in three things, and so far I shall not create a Controversie.

First, that a Covenant both illegally imposed, and illegally taken, may binde the Takers.

Secondly, that the Covenant in Question doth not binde to an endeavour to alter or meddle with the State-Government.

Thirdly, that the alteration or extirpation (as the word is) of Church-Government, being the main business of the Covenant (as the Covenanters plea hath granted) if this main business of the Covenant be lawful, it doth so far binde those that have taken it, if not lawful, they are, at least, so far discharged, and not under the Obligation of it.

Fourthly, 'tis accordingly, therefore, in plainest terms, again and again granted us, both by Mr. Crofton, and the more Moderate and Learned Author of the Covenanters plea, wherein indeed they concur with all Casuists, that, if we can discover any thing unlawful in the matter, especially this main matter of the Covenant, it was so far void *ipso facto*.

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5. For the proof of this, they cry aloud for ~~our~~ *strong reasons*. Such as I have, I shall now crave leave, with a sincere and humble hand, to offer to my Brethren.

6. Here I must pitch; and my work, in short, is to prove, that the Covenant, so far as it engageth the takers of it against Church-Government, and for the extirpation or *change* of it; is *unlawful* and *sinful* in the *matter* of it.

7. But give me leave to fix my foot in a plain *distinction*. The *Res jurata*, the thing Sworn or Covenanted to be done may be either such as is *unlawful simply*, and absolutely *unlawful* for any to do, or *quò ad nos*, when though it be not *sinful* in the *primary* consideration of it; yet to *such* and *such* persons it is *sinful*; for it cannot be denied, but that some things are *lawful* and *laudable* in *themselves*; and for some persons, (as to execute justice, to dispence the publick Ordinances, to bear the *Ark*, &c.) which are very *unlawful* for others *not Called* thereunto, to meddle with all.

8. So that, if to *endeavour* the *extirpation*

*irruption of the Government of the Church by Prelacy, be either unlawful in the first or absolute Consideration of it, or else as to those that thus did Covenant; and as it was covenanted; if either way it be found unlawful, so farre the Covenant is sinful in the very matter of it.*

9. Indeed, the immediate Question, and that which most neerly concerns the Covenanters, is not, whether the thing sworn be *in it self* lawful, but whether it be so *to them*, and whether this guilt lieth not on them, first to *purpose*, and then to *swear to sin*, that is, to do that which some way or other God hath forbidden them to meddle with; for to them to *whom* it is forbidden, it is as if it were unlawful *in it self* (as the *Apple* to our first Parents) and as it is unlawful for us, it goes into the matter of the Covenant which we take; and by consequence that which is only unlawful to us, if sworn, doth make that Oath, as ours, unlawful in its self, that is, in the matter of it.

10. Therefore, I shall not need to dispute, whether the Government of

## The present Case

our Church be so *necessary* by a *Jus Divinum*, and the Word of God as that it is *unalterable* by the power of *man*; or that it is *sinful* in it self to endeavour the alteration of it. I chuse rather to come as neer my Brethren as I can, and to argue from the *latter branch* of the distinction, according to which, my *Task* is to prove, that it is unlawful for *such* as took the Covenant to endeavour a change of Church-Government by *vertue* of that Covenant. Which may the plainer appear, if we consider the persons that took the Covenant, either as single persons, and one apart from another; or as *united* in the *great body* that at *first* took it.

Upon each of these we shall now proceed.

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CASE VII.

## CASE VII.

*Whether any private or single person can lawfully endeavour the alteration of Church-Government by vertue of the Covenant.*

Resol.

**T**HIS seems to be much the proper Case, seeing the *Parliament* it self, that first imposed the Covenant, are now dissolved into private persons. Yea, though some of the same Members, and many of the same *Lords*, may possibly sit in the present *Parliament*, yet as to that *Parliament* that is gone and dissolved so long since, they are but single and private persons: therefore if the Question be of any *Obligation* that may be thought to be now on them, from any thing they did in the *Long Parliament*, it must concern them as so many private or single persons, members of the *Kingdome*, and not of the *Parliament*.

D 4

2. Now

*The present Case*

2. Now, for any such to stand engaged by a *publique Covenant* against a settled Government ( as the Government of the Church is ) and accordingly to endeavour the *extirpation* or change of it, is palpably sinful, both as *such a Covenant*, and such *endeavours*, are directly against the *Rights* of the *King*, the *Laws* of the *Land*, the *priviledges* of *Parliament*, the *Liberty* of the *Subject*, and the former *Obligations* which lay upon the *Nations* : as will appear every one in *his own order*.

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## CASE VIII.

*Whether, to Endeavour to alter the Government of the Church, be against the Rights of the King.*

Resol.

**T**O make the Argument from the *Rights* of the *King* conclude the matter of the *Covenant* *sinful*, two things require proof. First, That to endeavour against the Government of the Church  
by

by virtue of the *Covenant*, is against the *Kings Right*. Secondly, thus to endeavour against the *Rights* of the *King* by virtue of the *Covenant* is *sinful*. Of both briefly.

For the first, it is evident, that thus to stand engaged by *publick* *Covenant* to endeavour, and accordingly constantly to endeavour against Church-Government, is directly against the *Kings Right of Authority* and *Prerogative*.

I. 'Tis against the *Kings Right of Authority*, for he is the *Supream Executor* of the *Law*; and all *inferiour Officers* are but his *Commissioners* to execute that government in which he is alone the *Supream Governour*, as we swear him to be, both in *Church* and *State*.

Now take away the *body* of *Governours*, the *Head* must needs fall; and if all *Inferiours* be removed, where will the *Supream* be?

But that which fits the Argument indeed, is this, to be engaged constantly to endeavour (as the word in the *Covenant* is) to extirpate the Government of the Church, doth directly oppose us in the whole course of our lives, and that

## The present Case

that in the very *sence* of the *Covenanters* themselves, against the *Kings Government*; As none can deny the *Government* of the Church *politically* considered to be, and against the *Kings commissioners* in the said *Government*.

In so much, as they must either *resist* it, by violence and *Armes*, as they have occasion; or at least not *own* it, not *submit* unto it, nor yield it any *active obedience*, yea, as more anon, *pray* against it, *preach* against it, and every way *disown* it, *revile* it, *undermine*, and watch all occasions to *ruine* and *extirpate* it, according as, they stick not to say, they are engaged by the *Covenant*; If this be not *inconsistent*, or at least *incongruous*, *unsuitable* to the *state* and relation of *Subjects*, and apparently against the *Right* of the *King* and his *Authority*, *whose government this is*, I humbly expect reason to the *Contrary*.

Secondly, the *Matter* of the *Covenant* is thus also against the *Rights* of the *Kings Prerogative*, as *Legislator*, as well as against the *Right* of his *Authority*, as *Supream Governour*.

I argue



I argue not from the *Imposition*, or from the *taking* of the Covenant without the *King*; which, indeed, were both against his *prerogative*; but as my Argument at present requires, from the *matter* of the Covenant specified; as engaging Subjects to endeavour the alteration of Government without the *Kings consent*.

Whether the *Government* sworn against be established by *Law*, we shall examine anon; at present 'tis enough, that such as it is, it cannot be altered, much lesse extirpated, without the change of the *Laws*, very many *Laws*, that much concern, if not establish the same.

Now it is well enough known to be a grand part of the *Kings Prerogative*, that no *Law* be made or altered without his *fiat*: Much less then, such *Laws* as concern *himself* so nearly as the changing, not his *Commissioners* onely, but his *Government* it self.

And it is more then *apparent*, that the *King* was in such a condition, when the *Covenant* was first taken, that the *Covenanters* did intend either to force  
his

## The present Case

his consent to change those Laws; or else, to root out the Government by Prelacy, against the King and the Lawes too. Therefore there is no such condition as might fairly have been in all the Covenants, [ if the King shall please ] or if we can prevail with him to change the Laws, or convince him of the great inconveniencies that we have discovered in this Government of the Church by Prelacy; But I am sorry to remember how the Covenant was carried on, as if the plot were laid to down with the Bishops, whether the King would consent or not, or what ere come on't.

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### CASE IX.

*Whether to endeavour thus against the Kings Rights, as obliged thereunto by the Covenant, be sinful.*

Resol.

**W**ithout Question it is; for to Covenant or swear to the injury of any is materially sinful, and void  
of

of it self; as if a man should vow he will steal his Neighbours Horse.

In all Covenants, therefore, the very light of Nature teacheth, that Inferiours must except the rights of their Superiours; Otherwise, if an Oath will discharge from subjection, how soon may all Government totter and dissolve?

No Covenant can take off the force of the Fifth Commandment, Honour thy Father and thy Mother, more then of the sixth, seventh, eighth, or any of the Rest.

It is therefore granted by all *Cassists*, that in *his rebus quæ superioris potestati subiciuntur*, in all things which lie under the power of our Superiour, this Condition is necessarily to be understood, in all Covenants, Oaths and Promises; *si ipsi etiam placuerit*, if it shall also please him that is our Superiour.

Now nothing can possibly intercept the Conclusion, but that either the Government of the Church doth not lie under the King: or that the altering of this Government did not concern his power: or that he gave his  
Consent

## The present Case

Consent, either to the Covenant, or to the altering of this Government; but none of all these are true.

First, The Government of the Church is directly and immediately under the King: as sworn by us all, to be Supream Governour, in all causes and over all persons, as well Ecclesiastical as Civil; and indeed, as was hinted before, all Ecclesiastical Governours, politically considered, are the Kings Commissioners, and in a plain line of subordination to him. Neither can they be taken from him, or indeed on purpose opposed or disobey'd, without apparent injury to the Supremacy, if not with his Royal assent, and special Commission.

Secondly, Neither may this Government be altered, or any thing changed therein, (or indeed any thing else that cannot be altered without Law,) but by the Kings own Act; and the alteration of Laws is a thing subject also to the Kings power, according to the Constitution of this Kingdome, without all dispute.

Thirdly, Neither did the King consent

sent to the Covenant, but, as it is well known, proclaimed his dissent against it, which very thing is thought sufficient to void it.

*Datur Juritatio Juramenti aliquando per Superiores, si in illa ipsa Materia sint Superiores, circa quam Juramentum versatur; sic Parentes: so Parents, Husbands, Masters, Princes may pronounce (saith Dr. Ames) either Oathes or Vowes made by Children, Wives, Servants, Subjects, without their consent, to be void, in those things which are subject to their power.* Ames. de consc. p. 219.

Therefore, so far as the Government of the Church cannot be altered but by Law, it is under the power of the King at least, not to alter it; he having a Negative upon both Houses, and consequently his proclamation hath pronounced the Covenant long ago; if this rule be good, which I think none do question, at least so far void.

I wonder that it should be urged, that the King so many years after, in his *Εἰκὼν Βασιλική*, should give his Consent to the Covenant, which he had immediately upon its very birth crush'd by his Proclamation.

Yea,

Yea; so far as his Proclamation could pronounce it void and destroy it, I think it may well be a Problem, whether the Kings future consent could revive it, if it had indeed been dead and buried so many years before.

But in what words did the King seem to consent? he saith, it should least displease him that men did keep their Covenant. These words do not expresse his Consent to the Covenant; much less, to that part of it which concernes Episcopacy: it was far from him to consent to the Extirpation of that: but rather, as it follows in the Kings Words, to preserve (not to extirpate) Religion in purity, and the Kingdome in peace.

Indeed, thus some would wrest one Modest expression, against the plain scope of that whole Chapter in the Kings Book, framed by him on set purpose to shew his dislike of this Covenant to his death; as any impartial Reader thereof may satisfy himself.

Fourthly, neither can it be said, nor truly is it, by any that I have heard of, that the King did ever consent to the Alteration, much less the Extirpation of Episco-

Covenant.  
Plea.

*Episcopal Government*; he was indeed at last contented upon a very hard bargain, to give it a *suspension* for three years; but the sword cut off that proceeding, and the *Objection* with it.

CASE X.

*Whethes the Covenanting to endeavour the Extirpation of Episcopal Government be against the Laws, and consequently sinful.*

Resol.

**T**O swear absolutely without submission to the will of the supreme Governour, to endeavour that which cannot be done, either according to Scripture, or the Constitution of the Kingdome, without his Consent and Act, this transports the Subject beyond his place, it invades the Sovereignie, and carries sedition and rebellion in it.

This cannot be denied, though the thing sworn against be in it self unlawful, especially when such Covenant is

E publickly

publickly imposed and taken; for no publick Reformation of things amiss can proceed without Tumult, if not consented unto by the King, who is not to be frightened to do it by his Subjects, in such a manner, of rising up against him by publick Oathes; This is to hurt Majesty, and indeed to do evil, that good may come; and if any shall swear to do it in their places, the Form of their swearing contradicts the matter sworn; for they cannot keep their places, and take such an Oath.

3. Much more when the thing sworn against is not evil in itself, nor contrary to Gods Word; therefore Mr. Crofton and the Author of the Covenants plea would take it for granted, that the Government of the Church by Prelacy, as it is in England, is so: but neither they, nor any other can ever prove it.

4. Neither dare they say, that either lawful Authority may not establish what Government they judge to be most convenient, if not against the Scripture; or that it is lawful for Subjects publickly to swear, that without submission to the pleasure of their Governours, they will



will endeavour to extirpate such Government as is not contrary to the Word of God. Or that such a Covenant is binding upon the people, to endeavour against it, or not to submit unto it.

5. Much less can it binde the people against such Government, if lawfull in it self, and such also as cannot be altered without change of the Law, which lies not in the power of the people to do without the King; especially if the Government sworn against be established by Law.

6. The matter is so plain, as Master Perkins hath decided it, That a Covenant taken against the Laws of the Land is void of it self, that it hath put the Declaration before the Covenant, and Mr. Crofton, and especially the Author of the Covenanters plea, upon a task impossible, viz. to make good that the Government of the Church, as in practice in England, is not established by Law.

Cases of  
Consc.

I shall labour on purpose to satisfie this doubt, presently; in the mean time the present turn is apparently served with a plain distinction. We may be said to endeavour against the Lawes, and

to swear against them *two ways*. Either when the *thing* we swear against is expressly established by plain Law; or when the *thing* we swear against cannot be abolished without the Alteration or Abolition of Law.

8. Now admit that there be no express Law appointing this *form* of Government Covenanted against, yet how doth this clear the Covenanters from *swearing against Law*, when they swear to extirpate that which cannot be extirpated *without* the violation and alteration of many, very many Laws. So that this *evasion*, I think, is perfectly obstructed.

9. A little more distinctly, seeing, as I humbly conceive, there is much strength in this Argument, to weaken, yea to void the Covenants Obligation, in this particular.

10. I doubt not to assert, that *such* an endeavour to extirpate Church-Government, as was covenanted, is against the Law both antecedent to the Covenant, and subsequent: such Laws as were in force before the Covenant was taken, and such Law as by full and just  
Au-

Authority was enacted since. And to conclude, that if the *endeavours* to extirpate Prelacy according to the Covenant be indeed against the Law in either of these Sences, they are plainly *sinful*, and no obligation of the Covenant can hold us to them. First then, let the question be put.

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## CASE XI.

*Whether the present Government of this Church were Established by Law in England before the taking of the Covenant.*

### Resol.

I have no insight into the Laws: yet there is so much in the very Surface of them, for this form of Government, that as I cannot but wonder at the doubt, so am I easily encouraged to encounter it.

2. Yet give me leave, in the first place to stumble at the fallacious use, and too weak improvement that I

and made of this expression [*Established by Law*] as if nothing could be *legal*, or opposed as *such*, that is not *positively appointed* in some *Statute* on purpose; if this be heeded, the advantage hence, which at most is small, utterly fails the design of the *Covenant*.

3. To what poor satisfaction hath the learned Authour of the *Covenanters* plea run through the *Canon Law*, the *Civil Law*, the *Statute Law*, and the *Common Law*, to find such an establishment with so much industry? while I think none will dare to question, but this *form* is *legal*; and that it is established in the *Law*, though no *express Statute* be found appointing it; and so much allowed, so far fixed and established by the *Laws*, as that he that shall any way engage against it, doth so far engage against *known Law*.

4. Is it not pretty to observe, that learned men should be so far subdued by prejudice, to question whether *Episcopacy* be established by *Law*, when *Episcopacy* hath so long, even for a thousand years together (as Sir Henry Spelman observes) had a great hand in

In establishing, yea making the Law it self.

5. Truly, methinks, feeling the power of the *Bishops* was before the *Laws*, so many hundred years before our *Parliaments*, as now they are, and before our *Norman Laws*, I mean, as ours: And seeing also, that they were still a main cause of the *Laws*, there is the less reason to expect their *Power*, or their *Office*, or their *Government* from them; or that the *child* should beget the *Father* that begot it.

6. However give me leave to venture a little without my *Line*, and to offer a *distinction* or two, that haply may cause my *Brethren* that are troubled with this scruple to take better heed to their *words*, and to make a better course to Vindicate their *Cause*, then by such a *wild* adventure to disturb every thing.

1. The *Law* may establish a thing two wayes: either by appointing it *de novo*: or by allowing it, and taking it for granted (as having its foundation sufficiently laid before) upon all occasions: thus the *Law* doth sufficiently

*establish* the Government of the Church, not only by those *special* Laws that relate unto it, but indeed, in *every* Law which expresseth the consent and advice of the *Lords Spiritual*.

2. Church-Government may be supposed to be *established* by Law, either in its *Office*, (thus we need not say the present *form* is established by Law; for its *Office* was before ever the *Laws* of the *Land* meddled with Church-Government;) or Secondly, in its *political* power, and the exercise of it: thus the present Government none can doubt to be *established* by Law: where we may read many times over the several *legal* names, with their distinct *Jurisdictions*, and the *crimes* punishable by them, and *Authority* allowed them so to punish, and the *fees* of their *Courts*, yea, and the very form and manner of Consecrating the *Bishops* established by Law.

3. Thirdly, Church-Government is establishable by Law, either *immediately*, or *mediately*. Immediately, when by an *express* Statute such a form is appointed, *mediately*, when a *State* im-

impowers a *person*, or persons, to *Commissionate* Governours for the *Church*: and he or they, by *virtue* of such *power*, do *settle* a Government in the *Church*, accordingly.

7. Suppose the present Government be not established by Law in the *first*; 'tis plainly so, in the *second* sence: there is *Statute Law*, declaring the *King* to be *Supream* Governour, over all *persons*, and in all *causes Ecclesiastical*: and there is *Statute Law* that gives him *Power* and *Authority*, or rather (according to my Lord *Cooke*) declares him to have power, to appoint and impower his *Commissioners* in *Ecclesiastical matters*. And we know, *Church Governours* derive their *political* power, and the exercise of it, from the *King* alone, from time to time, accordingly.

8. For the *Common Law*, *common usage* which is *Common Law*, will no doubt plead *prescription*, and establish this *form* of Government over us. A Government (as a very *learned* man affirms) may be established by Law, as well by *consent* and submission on the *peoples* part; as by *expresse suffrage*:  
*Quid*

*Quid interest suffragio populus voluntatem suam declaret an Rebus & factis?*  
Jul.

Thus we have found the *Covenant* to be against the Government that was *established by the Laws of the Land*, before it was imposed or taken, and in that sence, against the *Laws of the Land*, and consequently so far *sinful*, and not *obliging*.

10. But however *this* will passe, certainly there is *Law made since the Covenant*, that is plain enough, and will surely hold us: none can encourage any further doubt, but that the present *Church-Government* is so far *established by the Act for Uniformity*, as that it requires every *Minister* to declare, that he is not bound to endeavour a change of it.

11. So that if the *Covenant* should be yet *binding on us*, to endeavour a change of this *Government*, it should oblige us to violate the *Law*, and consequently to sin: therefore, whatever we thought before, we may be satisfied that the *Covenant* cannot oblige us so far now, viz. contrary to *expresse Law*.



*Lam.* But we shall put the *Case*, and examine it more at large.

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CASE XII.

*Whether a Covenant taken first, can oblige us against a future Law?*

Resol.

1. **T**HIS Case being weighty, and indeed much *our own*, I shall set my self, with all *sincerity*, as in the sight of God, to give it a full and clear *Resolution*, according to the best of my own *Reason*, and the *Judgement* of *uninterested* and *learned Casuists*.

2. That *Episcopal Government* is restored by *Laws* made since the *Kings return*, viz. in that which was taken from it, its place in the *Parliament*, and its former *Jurisdiction*: also that this present *Church Government* is so far established by the *Act for Uniformity*, that it is expressly owned and allowed; that so much as *endeavours* against it are *prohibited*, that it is no less

less then the *losse* of our *Living*s, not to *declare* that we are not bound to *endeavour* the *alteration* of it. These things are plain enough.

3. The *great* question here is, whether these *Laws*, made in the behalf of *Episcopal* Government, after the *taking* of the *Covenant* against it, can discharge the *Subjects* from the *Obligation* of the *Covenant* so far.

4. To this I do not fear to answer (*Episcopal* Government being in it self not *sinful*) in the *affirmative*: neither do I find any noted *Casnist* to contradict me.

5. The summ of my reason for the *affirmative* you have in this plain *Argument*.

*Propos. I.* The *Covenant* to do that which may become *unlawful*, cannot *binde* when the thing sworn (*abstracted* from our *Covenant*) is become *unlawful*; for then the *Covenant* becomes a *bond* of *iniquity*, and should binde beyond that known and generally approved *Rule*, that no *Covenant* binds *further*, and therefore not *longer*, then we *lawfully* may; and in the words of the *Covenanters*

*nanter's plea, make us debtors to hell.*

6. I am far from the Opinion of Navarr, Sylvester, Layman, and those that affirm that *no man is further bound by an Oath, then he would have obliged himself if he had foreseen the ill consequences of it*; which is indeed in their *latitudea* very dangerous rule, and plainly destructive to humane society.

7. Yet no Casuist, but, with Sanches, will allow the Rule, when thus limited; that *what would at first have hindred our obliging our selves, had it been foreseen, or had it first hapned, will also discharge us, when known or come to pass, from the obligation to the performance of it, if it be by reason that the matter is inhabilis ad producendam obligationem*, that is, if the thing become *unlawful*, and consequently weak, and unable to produce an *obligation*, as before.

But to Covenant to endeavour the extirpation of Episcopal Government, though it might be thought to be lawful to do then, yet *now* it appears it was to Covenant to do that which might become *unlawful*, viz. by the *Laws*, restoring

restoring that Government, and prohibiting all *endeavours* for the extinction or alteration of it.

2. Therefore, if it did oblige so far before, which cannot be granted, yet it can now oblige so far no longer, except it have power beyond Authority, and can warrant disobedience to the Laws of the Land.

3. The reason of the whole lies in that excellent Rule of Dr. Ames, a Rule not questioned by any that I have heard of. *De Rebus ita Mutabilibus, ut rem premissam faciant illi citam, subintelligitur, si res in eodem statu permanerint*, that is, in the fairest and most unexceptionable interpretation, if the change of the state of things do not render the thing sworn or promised sinful or unlawful.

4. Now it may be worth the examining, what unlawfulness can *de novo* be contracted by the change of the state of things mutable?

5. Certainly not an unlawfulness from any immediate prohibition of God: for then, either the thing could not be lawful, or in that sense mutable before; and

and the promise had been sinful *ab initio*; whereas Dr. Ames supposeth the contrary, and giveth *this* among the rest, as a condition of a lawful Oath: or else, it must be made unlawful by special revelation, which is absurd to suppose: especially seeing Ames makes the changeableness of the things and the state of them, a possible instrument of changing things before lawfull, and lawfully sworn into sinful, and such as can no longer be obliged unto.

6. What then remains, but that this Rule refers to the Laws of men: which indeed have power to change the state of things indifferent; and to make them, as to us, and as to their use, though not in themselves, either sinful or necessary.

7. So that, the meaning of the Rule is, that when we promise or swear any thing that is lawful, if it be of a mutable nature, and the contrary to what we swear may be commanded by Authority; we are onely to perform it, with this condition, if things remain in the same condition; and the command of Superiours or the Law of the Land do not prohibite, and make it unlawful for us to do.

8. Thus

- 8. Thus, admit that Episcopal Government was *res. indifferens*, and *res. mutabilis*, when men swore against it: yet to perform that Oath is now become unlawful, by the intervention of new Law, and our duty to Superiours; which no former Oath can supersede, for according to the Rule, the Oath cannot binde in things of so mutable a nature, without this condition, *si res in eodem statu permanferint*, if the things sworn do no way afterwards become sinful.

*Objection.* The proposal of an *Objection* wherein we have all that can possibly be urged against this Rule, may give some advantage to our further clearing this weighty matter: it is this. It may be thought, that God by virtue of the Covenant hath the first Obligation upon us, how then can the Law of man, made afterwards, take that off?

*Answer.* This is prevented in the very Rule it self; for we cannot be bound by any Covenant about such mutable things, without this condition be understood: and whatever we think we give unto him, God will accept no bond from

us, without this condition, that it be to the prejudice of none, much less of Superiours.

2. And who sees not, how great a prejudice this must needs effect to Authority, if an Oath taken by Subjects about things mutable should have power to suspend all future Lawes to the contrary for ever?

3. Indeed, God hath the first obligation upon us, (but we mistake wherein) not by the Covenant mentioned: by his own Law and the Covenant we enter as Christians; that we will honour our Father and Mother, obey every ordinance of Man, and those that Rule over us, and submit our selves unto the Higher Powers.

4. This is such a pre-obligation as no future Covenant can possibly dissolve; so that such as make a Covenant that shall bind them against the lawfull commands of Authority do thereby break their Covenant with God; which if they desire to renew again, they have no course left, but to break off the sinne of their unlawfull Covenant by timely repentance.

5. Seriously considering that we promised in the Covenant, that which we have now at least, no power to do: we had not the leave of future Governours in taking: and we see their *Laws* and *Rights* will be manifestly Violated in the keeping of the Covenant.

6. We offered that which was *not our own*, which Authority alone hath right and power to dispose of: thus we offered to God what we stole from our neighbour; or rather affronted and mocked him with a pretence of giving him more than we had: for we have not in us to swear, that we will do that for God, which afterwards we cannot do without breach of *Laws*, and offence to Authority.

7. Certainly, the first Table is never to be kept by a breach of the second: God will not be righted by the injury of our brother; or glorified, by dishonouring our Father and Mother: our unrighteousness cannot work the righteousness of God; nor can we fear God, by dishonouring the King.



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8. This I conceive to be the true reason of the former Rule, as well as a full Answer to the present Objection, & a sufficient proof of the present Argument. Gods unalterable law is to obey our superiours in things lawful. Things that are now lawful may be forbidden us by Authority; and then those things that before were lawful become unlawful; the State of things of this nature is mutable, and how they will change we know not; onely this we know, we must be subject for conscience sake, and submit to Authority for the Lords sake.

9. Therefore God having the first Obligation upon us, and that being unalterable, no Promise or Oath afterwards can discharge us from that; and consequently, all Promises and Covenants about things that are thus mutable may be made, or if made can binde, no farther then with this condition, if things so continue, and no command from Authority be to the contrary.

But I have something behind, that I hope may give full satisfaction.

10. There was a famous Case be-

twixt us and the *Jesuites*, much disputed in King *James* his dayes, that doth fully in all due Circumstances answer ours.

11. It was usual then, as appears by the Controversie, for *Jesuites* to go out of this Land, and take an Oath at Rome, according to a certain Constitution of the Pope to that purpose, that they would Return into England, and publicly Preach th: Catholic Faith here.

12. Now, because that some went out of the Land and took this Oath, before the Laws prohibiting this practice were made, and some after, there arose into Controversie two notable Cases of Conscience: The first, respecting such persons as took such an Oath against the Lawes before made to the contrary was this: Whether that Oath to preach publicly the Romish Faith did binde the persons so sworn, against the Lawes before in force, to the contrary? The second, respecting such as took that Oath before the Lawes to the contrary were made, was this: Whether the Lawes made against that which before they had

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had sworn to do, did not render the Oath, though made before to the contrary, void.

13. Both these Cases are so parallel to ours, they justly require us to take special Notice how they were decided.

14. And in earnest, what do our best Divines conclude about them? To the first, it is Answered, that the laws prohibiting that which they swore to do, being Antecedent to their Oath: the Oath was unjust from the beginning: for which is quoted those words of their own Casuists, a law which forbids upon pain of loss of goods, Death, Banishment, or such like, binds a Man upon pain of mortal sin: and thence our Divines conclude, that no Vow can justify the breach of it. Sacr. Thef. Cas. Consc.

15. But, suppose the Oath be first taken, what say they then? here also they positively, and without Hesitancy, say, that an Oath cannot binde against a law, though the law be made after the Oath is taken,

Thus saith a very Learned man, in answer to the Jesuites, as to this Case; if

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these Laws which take hold of you, when you return hither, had been made between the Time of your Vow, and your Returning; yet Naturally they would work the same effect upon this Vow of yours, (that is, as if the Law had been made before their Vow) and make it void. He also adds the same reason why, which before we have used, because (saith he) something was now interposed, which may justly, yea Ought to change your purpose.

16. But the Jesuits seemed to complain, that the Laws were made on purpose to interrupt and hinder the performance of their vow, and so make them break their Oath. And hence a third, notable Case issued, viz.

17. Whether the Evil Intention of those that make the Laws, namely to make mens previous Oaths void, doth not weaken the force of such Laws, as to the discharging of such Oaths.

The Answer that was given to this, consisted of two branches.

1. That it could not be any evil intention in the Legislators, but clearly, the necessities of Church, and State, that

that produced these *Laws*.

2. However, though the *Laws* had been made on purpose to preclude the performance of the Vow, yet would they naturally work the same effect, and void the Vow: urging that their own men teach, that the *Laws* of Princes are not therefore necessarily unjust and void, because the Prince had an ill intention in making of them.

*Alphon.*

*Castr.*

*de potest.*

*leg.*

*Doc. 1.*

All this, saith that Learned man, if the *Laws* be just, is evident and without question; O that we may finde it so.

*Vid. Dr. Don. pseu- domartyr. p. 156. 157.*

The Applicati- on is too casie.

18. But there is a *Notable Evasion*, that I must needs take notice of, so many are crowding for an escape at it: They say, rather then break our *Covenant*, we will submit to the penalty of the Law; and thus we suppose we fulfil the Law, and obey *Authority*.

That we may take the more steady view of it, we will put the Case.

## CASE XIII.

*Whether a submitting to the penalty annexed, be a due fulfilling or obeying the Law in point of Conscience.*

Resol.

De potest.  
leg. Hum.  
p. 2.c.2.

**C**Arminius tells us, that *this* Opinion [that if we undergo the penalty of the Law, we do not sin in the breach of it ; ] was the Opinion of some Schoolmen, who thought it a glorious matter, and fit to raise them a Name, to leave the common and beaten wayes, having perchance, a delight saucily to provoke, to gnaw, calumniate, and to draw into hatred those Powers and Authorities which made those Laws.

2. The ground of this gross mistake, partly respects the Law-makers : partly, the Nature of the Law it self ; and partly, the end of punishment as annex'd to the Law.

3. The mistake arises very much from an unjust apprehension of Govern-

ours,

ours, that make the *Laws*: we have not that *Reverence* and *Conscience* of them as is meet for such *Ministers of God*; not considering whose *Authority* they have, and execute in their *Legislation*: if we did, we should learn to submit unto them for the *Lords sake*, and obey them out of *Conscience*: for they *make Laws*; and if they be not sinful, *God* commands us to obey them.

4. We are also very apt to mistake about the *Nature of Humane Laws*: as if all such as have a *penalty* annex'd were therefore *penal* onely, or purely *penal Laws*, and left the *Subjects* in a perfect *Indifferency* whether to yield *Active* or *Passive Obedience*, to do, or to suffer, what the *Law* requires or provides.

5. 'Tis granted, that some *Laws* are *penal* purely; and if that occasion any doubt about the *present Law*, I cannot give them safer advice, then seriously to peruse the excellent pains of Bishop *Sanderſon*, drawn out to ſo much length, upon his obſervation of the ſad effects of this *Miſtake*, in a moſt clear diſcourſe about the *Nature of penal Laws*,  
Lecture of  
Conſc.

Laws, and of such as binde the Conscience.

5. I believe, there is the more to be studied in th's point, because I find the Learned Author of the *Covenanters* plea asserting also, that how far *Humane Laws* binde the Conscience, is the main question in the present Controversie.

6. The said Author of the *Covenanters* plea seems to be a great admirer of that Excellent *Bishop*; and no question but he is acknowledged, on both sides, for Learning, Piety, Prudence, Experience, all parts requisite for a perfect *Casist*, as credible as any other the Generation affordeth; and from his mouth what person doth not snatch at satisfaction? Let us then hear what he saith in the Case.

1. He expressly affirms that no Law that hath a *Command* expressed is purely penal.

2. That all *Humane Laws* that are not purely penal do in a sort oblige the Conscience: in general, immediately, and in particular, ex *Consequenti*, from the Word of God,

3. If the matter of the Law be not sinful,



sinful, we are bound to Active Obedience; neither may we willingly violate, much less oppose them, or be bound so to do, without sin.

To apply this, if the Government be not in itself unlawful: If it be ~~commanded~~ to be submitted to, if we are required to declare that we are not bound to endeavour against it; And lastly, if these Laws be not purely penal, we are not left indifferent by God, or the Law, whether we will obey or suffer, but are bound in Conscience to own the Authority, and submit unto the Government; and declare we are not bound by the Covenant to extirpate or alter it.

8. Indeed, to stick at a particular Law of more private concern, so far as to suffer the penalty, and not do the thing commanded, might in some Cases, for private satisfaction, be held more tolerable; but to hold our selves, notwithstanding Law expresse to the contrary, bound by Oath not to own a Government founded or confirmed by Law, or Governours commissioned by the King; is such a thing as cannot be excused,

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excused, (without expresse warrant from Scripture, which affords it none) by any Rules of sober reasoning before God or Conscience.

9. Indeed, if the *Covenant* have such force as to bind the *Conscience* against *Law*, still to endeavour the *Exirpation* of *Episcopacy*; I cannot see, but as it now obligeth not to own, or to *Act* under it, it will also compell to resist and fight against it, if occasion were offered.

10. Neither can I see any possible means of tying the *bands* and *hearts* of *Covenanters* to duty and peace (I speak as a *Divine*) but this onely, that they suffer their *Consciences* to be satisfied from *Reason* and *Scripture*, that they first owe such obedience even in *Conscience* to the lawful *Commands* of *Humane Authority*, as no further *Oath* can discharge them from it. And that it is not in their liberty, whether to do what is commanded, or to suffer what is threatened, seeing *God* interposeth, and decides the question, by determining us to the first, and requiring our *Active Obedience* to the *Commands* of his *Deputies*, where

where *himself* hath not required the contrary in his *Word* before. Submit your selves therefore unto every Ordinance of Man for the Lords sake, whether it be to the King as supream, or unto Governours, as unto them that are sent by him.

Lastly, the mistake ariseth from a false opinion of the *end of punishment*, which is properly in all *Laws* not purely penal: the punishment of *disobedience*, and not obedience at all. Indeed God requires us to suffer, rather then to do evil; but man commands not to suffer, but to do, whom we must obey in lawful things.

I shall put a period to my Argument (which was the second in order) from the *Laws of the Land*; having found the matter of the *Covenant* in the *second Article* contrary to them, we may conclude it *sinful*, and so far *not binding*.

II. Yet before I take off my pen, I cannot but acknowledge that some *Papish Casuists* do say, that an *Oath* may bind against the *Civil Law* in some Cases; if it be not against the  
Divine

Divine Law, the Law of Nature, or the Canon Law.

The Author of the Covenanters plea would suppose that these *Casuits* put in the Canon Law, to save their Infallibility. But may not we, upon as good grounds, suspect the like partiality in excluding the Civil Law? We are sure, Obedience in things lawful is with severity enough required in Scripture unto Civil Authority.

12. But we must observe, that these *Casuits* instance, generally, in such oaths as are concerning *Contracts* betwixt Man and Man; the performance of which hurts not the publick, and indeed the Covenanters plea mentions no other.

13. But is not a publick Oath to alter Government of another Order? for Subjects to swear to endeavour this, against the Laws of the Land, & the expresse dissent of the supreme Government; and to hold themselves obliged hereunto, contrary to an expresse prohibition of lawful Authority; Truly, methinks, it is also against both Divine and Natural Law, against Reason and Scripture,

Scripture, which seem to dictate, as with a beam of the Sun, that for publick security, Order and Peace, Subjects acquiesce in the present Government, and not rise up, either to swear or endeavour against it, contrary to Law.

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CASE XIV.

*Whether to Endeavour the Extirpation of Church-government, by virtue of the Covenant, notwithstanding the Laws to the Contrary, be not against the Priviledge of Parliament, and consequently sinful.*

Resol.

1. **W**E have already shewed the *sinfulness* of the *manner* of the Covenant in the second Article, as against the Rights of the King, and the Laws of the Land: we come now to consider, whether it invade not the Priviledge of Parliaments, and be not sinful also in that regard.

2. We

2. We finde it a Rule with all *Ca-*  
*suits*, in *omni Juramento excipitur Au-*  
*thoritas Superioris*, i. e. *quando agitur*  
*de superesse Superioris*: for it is confessed,  
 they add, *secus, si non de superesse su-*  
*perioris, sed privatorum*. That is, in all  
 Oathes about such things as lie under  
 the power of our Superiours, their *Au-*  
*thority* is excepted.

3. Nor their Authority already  
 exerted in Laws made before the Oath  
 onely; but (as it may, *de futuro*, and  
 afterwards be put forth in any New  
 Law, contrary to our Oath. Therefore  
 D. Jacob gives this instance in the Case.  
*Jurans non exire domo, &c.* A man  
 swears not to go from home, yet if he  
 be commanded by the Judge to appear  
 before him, or by the King, to go into  
 the wars, by obeying these commands  
 he is not perjured.

4. Again, if a man promise another,  
 that he will not hurt him, yet if the  
 Law requires him to kill him he, in so  
 doing doth not break his Oath; *quia*  
*illa promissio non occidendi intelli-*  
*gitur, nisi lege permittente*: because  
 his promise must except the Law.

5. Hence

Decision.  
 Aris, p.  
 373.

p. 174.

5. Hence it follows, though all the *Covenanters* had at first lawfully bound themselves by their Covenant to endeavour the extirpation of Episcopacy; yet naturally there must have been this great condition understood, saving the Authority of Parliaments, that have power to take up our endeavours of this nature by a Law to the contrary, when they please.

6. For, if this Government of the Church do lye more properly under the power of Parliaments to establish, or alter it: and if it cannot be altered without a change of the Law, and the Law cannot be changed but by an Act of Parliament: is not the Covenant to that purpose; *de superesse superioris*; and thus, necessarily conditioned with the exception of their Authority.

7. *Non valet Juramentum contra justitiam.* But it is against the righteousness of Obedience, and the honouring of our Superiours, to be held bound to act against the Authority of our Law-makers in any new Law that they shall make (if the matter thereof be not sinful) by any previous obligation whatsoever.

G

8. This

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8. This were indeed a handsome trick for *private* persons, to be all *law* (in a short time) to themselves, if *private* and self-obligations had power to supersede and prevent all the power of *legislation* in our *Parliaments* to the contrary: and to change places with our *Governours*, while thus we are freed from their *impositions*, and they are bound to obey the obligations of our *private Covenants*.

9. The *priviledges* of *Parliaments* are so rooted in the *constitution* of this Kingdom, that a *Parliament* in being cannot, in such a Case as this, prejudice succeeding *Parliaments*, to whom it is essential, with their head the King, to make what *Laws* they please in things *indifferent*.

10. Insomuch, that if the *Covenant* had been *lawfully imposed* by the Long *Parliament*, without the King, as indeed it was not; yea, had the King himself been *with them*, and made the *Covenant* as *lawful* as *law* could make it; yet it could not bind the *Nation*, but upon an *exception* of the power of *future Parliaments*, that by a *new law* to the contrary might take off the *obligation*.



11. Therefore an Act of Parliament made to be *unrepealable* in any subsequent Parliaments is void *ipso facto*, as that in the eleventh, and another in the one and twentieth of Richard the Second, was; these so made were void, *ipso facto*, in the very constitution.

12. Why? because (as a learned person saith) it takes away the very specificall form, essence and being, that is, the power and priviledge of private Parliaments.

13. Much more an Act of private persons, or of a Parliament without their King, that should offer to binde all future Parliaments from doing or enacting what otherwise is lawful, or engage the people not to obey them, must needs be so far a void Act; though in the most Solemn League and Covenant.

14. Especially, when a law by a full and undoubted Authority is made, and actually extant to the contrary; not only restoring the Government sworn against, not only prohibiting all evilles, yea, and endeavours against it, but requiring us, upon the severest penalty, to declare that we hold we are not bound by vertue of that covenant, to do or endeavour any such thing.

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15. Besides the holding our selves bound by virtue of that Covenant, to endeavour the extirpation of Episcopal Government is, indeed, a continued breach of the priviledge of that very Parliament that imposed the Covenant at first; in the injury thereby offered to the spiritual state thereof, the Bishops, when they were neither suffered to be present to answer for themselves, nor to have any others (as all the Commons of England have) to represent them, and to speak for them. *Non valet iuramentum contra justitiam & charitatem.*

16. But I find it much stood upon by Mr. Crofton, and the reverend Author of the Covenanters plea, that they did only Covenant to endeavour in their places, and by lawful means to extirpate Episcopal Government, and this they hope they may lawfully do, notwithstanding the Acts of Parliament, and without any breach of their priviledges.

17. But hereunto I answer, that so to endeavour as they count they are sworn, be neither unlawful in it self, nor against the Act of Parliament, tis well

well enough, they may then keep their *Covenant*, and not break the *Law*, or the priviledges of *Parliament*: but I doubt, we shall find, their *endeavours* which they judge just and honest, to be *peccant* in all the respects mentioned.

That we may discern, whether so, or no, we think it fair to put the *Case*.

### CASE XV.

*Whether it be lawfull to endeavour the extirpation of Episcopacy by vertue of the Covenant, notwithstanding the Act of Parliament.*

#### Resol.

1. **I**T is said, there are more wayes of *endeavour* then by *violence* and *sedition*: and indeed so there may; and if there be any *endeavours* not forbidden by the *Parliament* and *Law*, what ever they are, we are not called by the *Act* to declare, that neither we, nor any other are bound unto them; for wherein the *Act* doth not require us to

declare, we cannot be bound by the same Act to declare.

2. Therefore the endeavours against the Government of the Church, sworn in the Covenant, are either the same which the Act intends, or not; If they be not the same, then notwithstanding the Covenant, we may declare we are not bound to endeavour in the sense of the Act, by Vertue of the Covenant, which never intended so to binde us: but if the same endeavours be intended both by the Covenant and the Act, then the Covenant so far loseth its force; for as hath been clearly, I hope, proved, we cannot be bound by it against a law, though that Law, if the matter in it self be lawful, be made after the Covenant was taken.

3. I mean, if the endeavours to which we are required to declare we are not bound by the Act, be such only as are seditious, and may disturb the publick, then either the such endeavours required by the Covenant were seditious endeavours too, or else the Act doth not cross the Covenant in this particular, but strikes at such endeavours as were not covenantal.

4. If

4. If the *endeavours* in the Covenant be *seditions*, then they are *sinful*, and we cannot be *bound* to them; and indeed the greatest friends of the Covenant confess so much; if not, then they may declare (as indeed they have already in their *Writings*) that they are not bound to endeavour *seditionously*: which is no doubt the meaning of the *Act*.

5. However, as was said, let the sense of the word [*endeavour*] both in the Covenant, and in the *Act*, fall how it will, 'tis plain, that unless it be a necessary duty of it self, without respect to the Covenant, *thus* to endeavour, which is impossible to be proved, 'tis a *sin* to break the *Act* made against such *endeavours*, and a duty to declare we are not bound by the Covenant so to do.

6. But because stress is laid upon this very word; and indeed much of the Controversie depends upon it; and I find not any that have written upon the Covenant to have distinctly and plainly considered it; I shall take a little liberty to open the meaning of it in a few *distinctions*, and apply them as I pass on.

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7. En-

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7. Endeavour, is either *private*, or *publique*.

1. *Private* Endeavour may be thought to be with God in prayer, in our Closets, when no other person can receive any influence against Authority from what we say; and the *publique* suffer no danger by them.

In this sence, to endeavour against what we conceive to be corrupt or sinful in Church or State, betwixt God and our selves be it: yet a sober, well-tempered, and enlightned conscience, if hearkned to, may whisper, that to set our hearts and faces in our prayers to God ( who hath said, curse not the King in thy Bed-chamber, no not in thy thought ) against Government and Law, that defends the *substantials* of Religion, favours but little of a Christian spirit, and may easily draw the guilt of want of allegiance and charity to Government, and unwarrantable boldness with God.

8. Yet it may not be out of our way to remember, that prayer is a very unusual and unacceptable sence of Endeavour; and that there is nothing more

more usual with *covenanting Ministers*, as well as others, in their Sermons in publick to the people, to oppose, or at least to distinguish *endeavour* and *prayer*: calling them to add their *endeavour* in the use of other means, for the obtaining the matter of their prayers, or the things prayed for; without which, viz. *Endeavour*, we say, *prayer* is but *Muliebre supplicium*, weak and unavailable.

9. And, doubtlesse, to take the word [*Endeavour*] in the *Act* in this broad and wide interpretation, without the compasse of ordinary use in our selves or others, is to make a Net for our selves and others, with a desire not to escape it.

10. For, who can rationally imagine that an *Act* of *Parliament* should intend to govern men's thoughts or closets. The end of *Civil Power* is to keep the *Civil Peace*; and what can *Charity* or *Justice* imagine else to be the intention of *Civil Laws*? private prayers, if amisse, may provoke *God*, and trouble our selves, but they reach not the publick peace; Neither can that be presumed to break *Laws* which cannot prejudice

prejudice the end of the Law, or be discovered by the Law-makers. Therefore, onely apparere is esse in Jure; and not to appear to break the Law, in the sence of the Law, is not to break it.

11. Secondly, there is again *publick* endeavour, and this more or lesse *publick*.

Endeavour *lesse publick*, is such as though somewhat *privately practised*, hath *publick influences* and effects, or a natural tendency thereunto: This is either *Positive* or *Negative*. *Positive* endeavour against Church-Government, though in somewhat a *private way*, may be of much danger, not onely to the thing endeavoured against, which is directly intended by such endeavours, but to the *publick peace*, and be very seditious in its nature and effects. Such are venting our *animosities* and *discontents* against Government, and persons *commission'd* by the King, in our prayers with our families, and *discourses* with our Neighbours.

12. This is to enkindle a fire, that if of general practice by Covenanters scattered up and down, may quickly inflame the whole Kingdome.

13. Such



13. Such a course of Reformation as this, though the things endeavoured to be reformed were very corrupt, and indeed abominable, no wise man can allow, or discharge of sedition and unwarrantable acting out of our places.

14. But if the Government sworn against be not unlawful, and if it be fenced with Law, and we are required in the Act to declare we are not bound to endeavour against it; who dare justify such endeavours against Government and Law, but such as love to despise Dominions, and speak evil of Dignities.

15. This left publick way of endeavour is Negative, when we will no way own or aid under the Government in our places, and thus design to weaken the Government, by withdrawing our own Subjection, and encouraging others to do the like after our example.

16. I wish it were not so: but is not this, with the former, the intended practice of such as hold themselves obliged by the Covenant? and is this, if possible, to live peaceable with all men? is this to be subject for wraths sake? and

and to obey every Ordinance of man? either the King as Supream, or those that are commissioned by him? is this to obey the Laws of the Land? and to do nothing that may disturb the publick?

17. O, that my Brethren would sadly consider, if so great a multitude as they please to boast of, even of all degrees and ranks in the Nation, did indeed take the Covenant; and all of them should be of their mind, and hold themselves obliged not to own Church-Government, or Act under it, as they may have daily occasion (notwithstanding the final determination of Authority, that we must be governed by it) what disturbances, distractions and confusions must needs follow in Church and State?

3. Blame not the Parliament, if they intended by the Act to prevent it: especially considering, that this is not all. But more publick endeavours are judged by Mr. Crofton lawful too, so long as every man keeps his place.

And truly, [if endeavours,] in the Covenant be the measure of the meaning

meaning of the word, in the *Act*, as is very likely, I am loath to remember how high it once carried us: indeed not in private, but too too publicly.

The *Covenant* speaks of our places, and by lawful means; yet also to our power, and with our lives and estates. And what need of all this, if we may only petition in a regular and legal course, and so, and no otherwise endeavour; there being no other lawful way of endeavour in our places, but these, that I can think of: and as for petitioning too, if that should be forbidden, certainly we are not bound unto it.

But Mr. Crofton, and the said Author, tell us of a better meaning [of acting in our places:] Ministers must preach against the Government, and the Lawyers must plead against it, the Judge must sentence it, the Souldier must fight against it, yea, and every tongue must revile it, and speak evil of it, and every mouth be filled with cursing and bitterness against it.

I need not say, thus it was, when the cause of the *Covenant* was in the field.

field. The Lord give us humble and peaceable spirits, to discern at last, in the *Calm*, the way of our duty, from which we have been too long transported by the stormy wind & tempest.

4 In short, thus to endeavour to alter the Government of the Church, and the Law, is either *sinful*, *indifferent*, or *necessary*.

If it be said to be *necessary*, that is, a duty of it self, without respect to the *Covenant*, two things must be proved; both of which are highly incapable of it. First, that the Government is *Unlawful in it self*. Secondly, that Subjects are bound to use *unlawfull* endeavours for a Reformation of Government, and Law; as no doubt those before mentioned are.

If these endeavours be said to be *indifferent* in themselves, and made *necessary* to us, by virtue of the *Covenant*: I answer, as before is proved, that we cannot be bound by our own Oath to do a thing *indifferent in it self* (seem it never so convenient to us) against a known Law of the Land; and to the prejudice of Parliamentary power,

## about Conformity.

LII

power, in the determining of things in-  
different.

But if the *endeavours* be indeed *sinful* in themselves, we need no power of Law to discharge us of them, for they never bound us: but the Covenant was so far naught from the beginning.

5. In a word, that these *endeavours* are in themselves sinful, appears in the reason of the Covenant, and the concessions of the very opponents.

1. The Covenant requires no more, and we are bound no farther (say our Brethren) to endeavour against Episcopal Government, but in our places, and by lawful means.

But now the first step that our Brethren take in this their endeavour, is out of their places, viz. by not yielding unto, not obeying, not so much as acknowledging the Government, which the King and the Law hath set over them: nor making any conscience of the Law, requiring them to disclaim their obligation to the contrary.

For Subjects not to obey, not to own their Superiours, to reject those that are sent by their King; Yea to make

make their own *Covenant* to prevent the commands of *Authority*; surely this is for *Subjects* to be out of their places; and if these be their endeavours to extirpate the *Hierarchy*, the *Covenant* itself, in the modern sense of it; will not allow them.

2. Again, much more to take all occasions to revile and curse this *Government* in our *Prayers*, and *Sermons*, and *Discourses*; and in effect, to do what in us lies, that the people reject it, scorn it, hate it, trample upon it; and make it the mark of their malice and revenge; this is certainly to endeavour out of our places, and by unlawful means too, and far from the Tenour of our Oaths of *Allegiance*, *Supremacy*, and *Christianity*.

3. Let me then conclude, that look what my *Brethren* concerned take to be the sense of indeavour in the *Covenant*, and how they themselves understand it by their purposes and practices, and upon sober reckoning, they will find that such endeavours are both unlawful in themselves, and made unlawful by the *Act of Parliament*, and upon either

either account, much more on both, they need not stick to *declare*, as required that neither they, nor any other person is bound thus to *endeavour*, notwithstanding the *Covenant*.

Though, I presume, if there be any other *endeavours* besides *acting* against, *speaking* evil of, or *not yielding* unto the *Government* as established by the *Laws* of the *Land*, (which are not unlawful, seditious, and not inconsistent with the *places* of *Subjects*) my *Brethren* are not by the *Act* required to *declare* their non-obligation unto them.

But though we may not *endeavour* the extirpation of Episcopacy, there may be many *corruptions* in the *Government* by Episcopacy; and are we not to endeavour an *alteration* or *Reformation* of them? Object.

1. First, as it is unlawful according *Answ.* to the *Scriptures*, *Reason*, and the *Constitution* of the *Kingdom*, for *Subjects* to enter into a *publick Covenant* to reform the *Church* without the *consent* of the *King*: so we cannot be bound by such *Oath* to endeavour it, by means that are *sinful* and *seditious* (as before) or out of our *places*.

H

2. We

2. We must *distinguish* of *corruptions* in the Government, and the Government it self, as well in the *Answer*, as in the *Objection*: and betwixt a *Reformation*, and an *Alteration* or *Change* of Government: or an *Alteration* in the Government, and an *Alteration* of the Government.

'Tis worth our notice, as to this *Objection*, that the *Act* requiring the *Declaration*, is expresse for the latter, and not the former branch of the distinction: the words of the *Declaration* are, *I do hold that neither my self nor any other person hath any Obligation upon us from the Covenant*, to endeavour to make any alteration or change of Government in Church or State, nor in the Government of either: that is, indeed, that we are not bound by the *Covenant* to labour to pull down the *Frame* of Government, and set up another, either in Church or State.

We have sufficient ground for this distinction from our covenanting Brethren themselves, if not from their distinction of the *collective* and *distributive* sence of the *second Article*, about  
Church-



Church-Government; yet from such moderate persons among them, that openly declared upon a solemn occasion, that might they see any material alteration in the Government granted there, they should hold themselves satisfied, as to the Covenant, in that point.

Besides, the King and Parliament have practically improved the said distinction (I presume, in order to such Brethrens satisfaction) and have, indeed, made a material alteration in the said Government, by taking off the high Commission, and the Oath ex officio, by Law; and yet, established the Government it self.

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## CASE XVI.

Whether the Covenant be not against the Liberty of the Subject in this particular, and therefore sinful in its matter.

### Resol.

1. **A**fter the Bishops were thrown out of their places, in the House of Lords, we might yet respect them,

them, as well as the rest of the Dignitaries in the Church, as the Kings Subjects, and to have an interest in the freedom of the Commons. Now, in this capacity we shall find the Covenant was very injurious to them, even as Subjects and freemen, and consequently, it tore up the very foundation of the liberties of the people, and in the destruction of one society threatned all.

2. 'Tis well known, that the Governours of the Church were in possession of their several freeholds, when the Covenant was voted to destroy them, which their predecessors had enjoyed many hundred years without any interruption considerable.

3. The number of these Subjects was not small: their manner of living and governing, in so many famous Corporations, and Colledges, was more then vulgar.

They had a considerable interest in the Lands of the Nation: and much people being related to them, and more depending on them, and their great hospitality, were concerned in them, and fell with them.

4. Yea,

4. Yea, it is declared by sundry *Acts of Parliament*; that the *holy Church of England* was founded in the state of *Pre-lacy* within the *Realm of England*.

5. And no wonder, that this *Crown of England* is so much concerned for it: and that the *Kings of England*, at their *Coronation*, swear, they will grant, confirm and keep all the *Customs and Priviledges* of the *Church*, granted by *King Edward*; and expresly to *bishops* all *Canonical Priviledges*: and that he will be a *protectour and defender* of the *Bishops*.

Yet notwithstanding their *number*; their *Relations*, their *Freeholds*; their *Interest* and *Continuance*, notwithstanding the *Acts of Parliament*, and the *Royal Oaths*: yet was their *Extirpation* sworn by the *Covenant* imposed without *Law*, or the *Kings Consent*, and passed in the *Parliament*, when the *persons*, the many *Corporations* in the *Land* concern'd, had none to represent them in the house of *Lords*, or the house of *Commons*, contrary to the excellent *Constitution* of the *Nation*, and the *Liberties* of *English men*.

H 3

7. Thus

7. Thus unjustly have they suffered nigh 20. years together ; and shall we yet think our selves bound by a Covenant, that was at first laid in the subversion of our English Freedom, to prosecute their Ruine ?

8. Especially, against the Grain of Authority, the current of the Laws, and in an Age so zealous to fulfill the Prophecie of Dr. Featly, who at their lowest askt this question ; *How know ye whether Episcopacy may not be revived and raised up again by future Acts of Parliament, in times as well affected to the Clergy, as these are ill.*

9. For the Rights of Episcopal Government are again confirmed by King and Parliament : and they that have places therein have as clear a title thereunto by Law, as any other Subject hath to his temporal estate : And how can a Covenant binde us to injure others, who are first obliged by God himself to walk honestly ?

10. Here I humbly offer, whether the King himself can be bound by Oath to destroy his people, or any society or person of his Subjects ? especially,  
out

out of his *Parliament*, and when he is according to his *Oath* and his *Office*, if he should never take his *Oath*, bound to do *Justice* to all, according to *Laws* already made, the true measure of all mens *Rights*: *Salus populi* hath a *Supremacy* over the *King*: at least, the *King of Kings* hath so, who hath first obliged him to distribute *Justice*, and preserve the *Rights* and *Liberties* of his people impartially, and without respect of persons.

11. We are sure the last *King*, of ever happy Memory, did not consent to the *Covenant*; or if he had, he was first bound expressly to the contrary by his *Coronation Oath*, to defend the *Bishops*, and maintain their *Canonical privileges*.

12. And in the behalf of the present, we may be bold to say, the *Parliament* imposing the *Covenant*, onely by an *Ordinance*, which lost its force at their dissolution at his *Fathers* death, he could not confirm the *Covenant* by any Act of his without a *Parliament*: and the former *Ordinance* ceased with the former *Parliament*: and the *Petition of Right*

tells us, that it is *contrary to the Liberties of the Subject*, to have an Oath imposed without an Act of Parliament: and much more so, if against the Freeholds, and the very being of so many famous Corporations in the people of England.

13. The King is bound to Right; but cannot be bound to wrong any of his Subjects: any such obligation is void of itself; for the Oaths of Kings must also have the condition, so far as lawfully we may; who are accountable to God, (though not to man) by whom they are intrusted with the good of their Subjects, and to whom they have sworn.

14. Therefore David when he had made a rash Oath, that he would slay Nabal and all his Household, rejoiced when he had occasion offered by Abigail to break his Oath: and though he swore to Shimei, that he would save his life; yet, as if upon better advice he had found that that person had deserved to die, and been convinced that it was expected from God that Justice should be done; he commanded his Son Solomon to put him to death: and doubtless it had been better for Herod to have saved John

1 Sam. 25.  
32.

2 Sam. 19.  
23.

*John Baptist*; though he had broke his *Oath*, and lost his *Reputation*, in some measure, with the people.

15. Especially, if through *fear* or any other *temptation*, the *King* should be thus prevailed with, to promise or swear to injure his *Subjects*; The Case then is, as if a man under threats of a *Robber*, should swear to bring him his *Neighbours horse*.

16. Now whether the thing sworn in *fear* and under *temptation* be *unlawful* and unjust, or not, must be judged by the *Conscience* of the party sworn.

17. Whence may issue two Cases, with respect to the time when the *Oath* is made, and when it is to be performed: But one answer doth serve them both; for when the *Conscience* dictates the thing sworn to be *unlawful*, it will rule the Case: if a man swears for *fear*, against his *Conscience*, his *Conscience* being *Gods Vice-gerent* within him, he sins against *God* in swearing; *God* by his *Conscience* having the first *Obligation* upon him. And if he should perform his *Oath* against his *Conscience*, he sins twice: first, by doing evil, and secondly,

condly, by keeping his evil Oath: For, as the Right Reverend Bishop Sander-son concludes this very case, such Oath doth not bind against Conscience.

18. The Author of the Covenanters Plea would fain say something to weaken this Conclusion of the Bishop, supposing the matter of the Oath to be lawful in it self, and onely appearing to be evil to him that swears it: but though he make a flourish towards it, if we apply his discourse to our present Case of the Covenant, it vanisheth into air.

19. For though it be true, that an erring Conscience doth not obligare, it cannot be denyed but it doth ligare; and consequently suspend the performance of the thing sworn, so long as the party apprehends the matter to be sinful, whether it be indeed so, or not.

That is, no one is bound by the Covenant to endeavour to extirpate the Government of the Church by Prelacy, while he is perswaded that so to do is sinful, and to the injury of the Church.

20. And it is all one, whether the Conscience of the party, as I have said, did thus judge the thing unlawful, when



when he swore it, or is since so convinced; for we may not aggravate a rash Oath with unlawful practice, that is, against Conscience.

21. But if the matter of the Covenant be unlawful in it self, as hath amply appeared, in such a Case, truly there is no dispute; for here Conscience dictates nothing but Truth and Duty: and it were sad adventure for a King himself to second Herod; and to fulfill a wicked Oath by a more wicked Act, against his Conscience, and his Brother, and his God too.

*Si facere intendit, his peccat; & ex intentione quam habet pescandi, & ex* Tolet. Cal. Conf.  
*Juramento supra rem injustam.*

The Case of Abbots in Henry the Eighth's time is too weakly compared with the Case of the Bishops in ours, unless it be proved, that the Abbots were as useful in the Church as the Bishops, &c. That the Bishops, &c. are declared to have run into a *premunire*, as the Abbots were: That the Abbots had none to represent them in the Parliament, as the Bishops had not; and especially that the King was not active, or any

any way consenting to the Act for the destruction of the *Abbots*, as he was not to the Covenant for the Extirpation of the *Bishops*: which are not to be undertaken.

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### CASE XVII.

*Whether the matter of the second Article of the Covenant be not against former Obligations, and consequently sinful.*

#### Resol.

**T**He first *Spring* of all Obligation is in God: *Laws* bind us, *Love* binds us, *Oaths* and *Covenants* binde us, but how? as God in *Nature* or *Scripture* binds us; he requires us to love our *Neighbour as our selves*, and not to wrong him; to obey *Authority*, and observe their commands; to pay our *vows*, and fulfill the Oath that is gone out of our lips.

2. It is a sure Rule, that as God himself is ever the same, so his Moral Obligations upon us change not; Neither can any Act of ours take off, or weaken our Obligations to him.

3. Hence

3. Hence it eternally follows, that a *latter Obligation* against a *former* is of no force, but *void of it self*; because the *former Obligation* being from God, and of a *Moral Nature*, it is *eternal*, as God is, and *fixt*, and not to be broken.

4. There seem to be three Bonds or Cords of God to have had force upon us *before the Covenant* was taken or thought of; all which the *Covenant* is against, and *endeavours to break*, in the second *Article* of it: To *obey Authority*, to *keep our Oaths* and *Promises*, and to *serve the Church* in our *Generation*.

1. First: God hath first, both by *Law of Nature*, and *holy Scripture*, bound us by his *Sovereign indispensable command*, to *honour our Parents*, to *obey them* that have the *Rule* over us, to *submit to every Ordinance* of *man* for the *Lords* sake, whether to the *King* as *supreme*, or to those that are *sent and Commission'd* by him; and of necessity to be *subject not only for wrath*, but *Conscience sake*: because the powers that be are *ordained by God*, ordained to be *Ministers of God*: whosoever there-fore

fore resisteth, resisteth the Ordinance of God, and consequently God himself.

2. Were not these Obligations upon us, even on our very Consciences, before the Covenant was taken? did not the Covenant find these barrs within us? was not the Conscience thus prepossessed against it, and lock't up from it?

3. But how was the Covenant contrary to these Obligations? yea rather how was it not! it being imposed and taken against the Kings Laws: and the matter of it, as we have shew'd, being against the Rights, both of King and Parliament, and the Government of the Church set over us, by the King and Laws, made both before, and since the Covenant.

4. More particularly, God first obligeth us to be subject, and obey our Governours: and the Covenant would engage to disobey, disown, and destroy them: I mean, our Governours in the Church, it would discharge us of our Obedience, and oblige us to resistance, contrary to Gods express obligation upon us, which cannot be.

5. Again, the Civil Authority requires us to obey our Ecclesiastical Governours: The Civil Authority by Acts of Parliament

ment requires us to declare, that we are not obliged to resist them, to endeavour to extirpate them; to this also we oppose the Covenant, though God first hath bound us to obey our Rulers, which cannot be.

6. I have spoken to *this*, under another Argument before; I shall here therefore, onely add, the plain, but very weighty, & Authentick testimony of Mr. Perkins, who very distinctly foresaw our Case.

7. He laies down two Rules, amongst others, that methinks might decide our Cases of Controversie. Cases of Consc.

1. If an Oath be taken against the Laws of the Land, or Country whereof a man is member, it bindes not; he doth not say that it was sinfully taken onely, but it bindes not at all: he gives the very reason for it, which I am now improving: because on the contrary, Gods commandment bindes us to keep the good Laws of men.

8. Therefore the Covenant, so far as it is against the just Laws of the Kingdom, that is, such Laws as are not unjust or evil in the matter of them, can not binde at all, because God hath first commanded us and bound us to the contrary.

9. 2. Again

9. 2. Again (saith Mr. Perkins) If at the first the matter of the Oath were lawful, and afterwards by some means becomes either impossible or unlawful, it bindes not the Conscience: when it begins to be unlawful it ceaseth to binde, saith he, because the binding virtue is only from the Word of God.

10. Thus also, had there been no Law to render the matter of the Covenant unlawful when it was taken; yet it being now unlawful to endeavour to change the Government sworn against; yea it being a duty to declare that we hold our selves not bound by the Covenant so to do, the Covenant cannot oblige, either thus to endeavour, which is forbidden, or not thus to declare, which is required; for the one is a sin of Omision, the other of Commission, but both sin, to which no Covenant can possibly oblige; for then it should oblige us against God himself.

2. Secondly, the matter of the Covenant in the Second Article is against many former Oaths, whereby the Nation stood obliged before the Covenant was imposed or taken: and in that regard we were

were first oblig'd by God to the contrary.

1. Not to speak of that natural Allegiance in which all Subjects by the will of God in the very law of Nature, as well as Scripture, are born obliged, when they are born Subjects unto our lawful Prince; the Oath of Allegiance superadded re-inforceth us to obey him in all his lawful commands.

2. And according to the Rules above mentioned, whether this Oath be actually taken before the Covenant or after, we are by the Divine obligation to obey the Kings Laws; and to declare that the Covenant doth not binde us against the Kings Ecclesiastical Government, or against his will expressed in the Laws of the Land, whatsoever is libertie urged to enervate the same.

3. Especially, if we adde the direct obligation of the Oath of Supremacy; wherein we allowne and recognize the King in all causes and over all persons as well Ecclesiastical as Civil, Supreme Governour: For how can the Oath to extirpate his Government, and destroy his Officers against his will and his known Laws, consist with his sworn Supremacy? or in the cause of Ecclesiastical Govern-  
I ment,

ment, how do those Ecclesiastical persons acknowledge him to be their Supreme Governour, while they resist him, against his express Laws, in this very cause, even with endeavours to extirpate his Government?

4. Besides, many of the ancient Ministry stand more immediately obliged to the Government of the Church, by their subscriptions to thirty nine Articles; wherein they have set their hands, that there is nothing superstitious or ungodly in the Form and Manner of Making, Consecrating and Ordaining of Bishops, Priests and Deacons: as also in the form of their very Ordination as Deacons and as Presbyters, in which, they solemnly promise to obey their Ordinary, and to follow his godly Judgment: which they also bound with the Oath of Canonical obedience.

5. Lastly, the general protestation, taken some years before the Covenant, must needs effect the discharge of it so far as they are contrary.

6. That the Protestation was as legal as the Covenant, as yet none ever questioned. It was imposed by the same power, at least it was never proclaimed against



against by the King, as the Covenant was: and that, the *Author* of the Covenanters plea argues, did sufficiently justify it. It was taken by the *same* persons generally; and indeed by *thou-*  
*sands* more then the Covenant was, and that is, doubtlesse, enough, by Mr. *Croftons* Logick, to conclude it National and perpetual, and not to be violated or made void by any future power or obligation, or Covenant whatsoever.

7. But wherein is the Covenant contrary to the Protestation?

1. In the Protestation we promised to maintain the priviledges of Parliament; which, as I have shewn before, by our standing bound by the Covenant to endeavour the extirpation of Church-Government, notwithstanding its establishment by Act of Parliament; and by superseding Parliamentary power for ever, enjoining our subjection to it, are sufficiently violated.

2. In the Protestation, we also promised to defend the liberties of the Subject. These are also violently seized on by this *Second Article* of the Covenant; herein so great and considerable a part of the Nation, as Ecclesiastical Governours,

## The present Case

vornours are, have their *freesholds* sworn against; and their Power and Office threatn'd with utter extirpation, notwithstanding the protection of the King and the Laws; yea, when neither their King that gave them their Commissions, nor any to represent them, had liberty to vindicate their cause, or speak in their behalf in the Parliament, when destruction was contriving by this way of a Covenant for them.

2. But these things have been hinted before, and unanswerably handled by others: I hasten to the third and last way of pre-obligation mentioned, viz. for the service of the Church in our generation; when I have sealed that, from our Oaths and promises now spoken to, with that general Rule of Dr. Ames never yet acquainted with doubt. *Juramentum posterius contra Juramentum, aut etiam promissionem antecedentem & honestam, non obligat*; a latter Oath that is against a former honest Oath, or but a promise, doth not binde.

3. Thirdly, I doubt not to say, that the Covenant cannot bind us to forsake our duties, or discharge us from the exercise of our offices in the service of the Church, where

wherunto we are called : and to which we are obliged by God in his Word, before ever the Covenant was thought on.

1. I acknowledge, that my Lord of Lincoln teacheth that the seeming binding of some good doth not simply or precisely always discharge us from our Oath: except there be other circumstances concurring, which evince it non-obliging.

2. But there seems to be no room for a question here, when our place and duty us to do that which would be bindred: for then the discharge results also, yea and principally, from a former Obligation of God upon us, to do our duty.

3. A man swears he will never come near such a River more, because he had like to have been drowned there: but at a distance, he sees his Neighbour in the same hazard at the same place: now certainly, notwithstanding his Oath to the contrary, he is bound to help his Brother out, and to save his life. What is the reason of this? there was a prior Obligation of God upon him, thou shalt love thy Neighbour as thy self.

4. Dr. Jacob the Casuist puts a harder Case by far then this; A man swears to another that he will do him

no hurt, yet if by the Law he kills him afterwards, he doth not break his Oath; his reason is, *quia illa promissio non obligandi subintelligitur, nisi lege permittente*; implying, that there was a pre-obligation upon him to fulfill the Law.

Indeed, the thing sworn must be indifferent in it self, or at least of weaker necessity than the good that would be bindred by the keeping our Oath, and then all Casuists, I think, concur with Jacob and Sylvester; *qui indifferens aliquid jurat, ut ire ad villam, non esse militem, &c. Dato casu quo quis vivere nequeat, nisi veniat contra Juramentum, illud servare non tenetur, & propria Authoritate contravenire potest.*

5. Now, if to endeavour extirpation of Episcopal Government be not sinful, I am sure it is non-necessary, and then it is but an indifferent thing: if so, though men have sworn it, yet if the keeping their Oath will hinder the doing of their Natural duty both to the King in breaking his Laws, and casting off his Government; and to the Church and our several Congregations, in putting our selves into an incapacity according to Law, to serve any longer in the Ministry;

say, we are so far discharged of our Oath by the pre-Obligation of God to our Necessary duty; and (notwithstanding the Covenant) we be to us if we preach not the Gospel.

6. Upon this ground I stand, and assert, that the Argument ab impeditivo hoc, is not so sleight, as the Reverend Author of the Covenanters plea would render it. Neither doth that Author himself say, that in no Case the Argument will hold: yea at last, he seems to concur with other Casuists, in the Allowance of it, with these four grains or conditions; it must be a greater good that is hindred: this greater good must be attainable no otherwise, but by the violation of the Oath. This good must be certain, and the Oath must be truly made to God.

7. Having laid down these Rules, the said Author bids a challenge to his Absolvers, to apply them to the Case of the Covenant; and though the stress of the Argument lies not here, I humbly accept it.

8. I dare affirm, that greater good would accrew to themselves, and to the Church of God, and their Native coun-

## The present Case

try, by not indeavouring the extirpation of Episcopacy, or the present Church-government, and by declaring that ye are not bound so to do, and thereby continuing your employment in the Church, then by any sober and reasonable man can possibly be imagined; as things and Laws now are, by still endeavours.

2. What fruit can you look for from such cross proceedings to Government and Law, but the loss of your place; your capacities to dispense your trust, to employ and improve your Talents; and, if so many fall together, as is feared, the distraction of the Nation, the discontent of the people, the grief of our King, and the great hazard and loss of the Church.

3. On the other side, how great advantage must needs follow upon a general conformity ( notwithstanding the Covenant ) to the Church and State? how great satisfaction to our Governors, especially to our most gracious King, whose indulgence you yet rejoyce in, and he yet continues, as the space of your repentance and obedience; after two years patience and long suffering? How much Right would you thus shew

the *Living*, your *selves*, your *families*,  
and your *several Congregations*: yea  
how much encouragement, you that  
are *Leaders*, might you hereby give to  
your *Brethren*? your *non-conforming*  
*Brethren*, who depend on you, and  
wait your *motions*, whom you have,  
as it were power to *save* or *destroy*?  
your *conforming Brethren*, who are  
*scandalized* by your means *before the*  
*people*? and made the *scorn* and *re-*  
*proach* of such as count themselves ex-  
traordinary *Saints*, for your sakes?  
saying, We will do any thing to save  
our *livings*, but *such* and *such* are the  
*only faithful* and *conscientious Mini-*  
*sters*, they will *not conform*. How  
might you (it is much in your power)  
how might you *thus* *allay* our *stirrs*,  
still the noise of the *people*, and in a  
short while leave nothing amongst us but  
*peace*, and *unity*, and *amity*, and all  
blessed advantages of *profiting souls*, of  
destroying *Heresies*, of reforming *abu-*  
*ses*, and crushing that spirit of *profane-*  
*ness* you so much, and continually com-  
plain of: but are running from the only  
visible remedy of it in the world: Con-  
sider what I say, and the Lord give you  
to understand it.

2. Give

## The present Case

2. Give me leave therefore, in the second place, to say also, that these *goods* cannot be attained by us any other way, for by the *Laws*, Ministers cannot discharge or attend upon their *Offices*; neither can the people (if they are bound by the Covenant not to *own*, but to resist the Government of the Church) *concenter* together in the peace and settlement of Church or State, they must not *own* the Government, nor conform to the proceedings of it, nor the *Laws* about it; and yet the civil Authority will stand by it, defend it, protect it, *see* and its Decrees and *Acts* with the severe penalties the Law hath provided; and what weeping and complaining; what wasting and ruining of *Estates* and *Families*? what publique distraction and confusion must needs follow?

3. Which, thirdly, is as certain as our King and Parliament by *Statute Law* can make it. Neither can any sober man, and one that expects not the fruits of Rebellion and Treason for a Reformation, imagine how things can alter without a Miracle: we have as much certainty both Logical and Moral, as wise men know the Nature of the Case will bear.

4. Lastly,



4. Lastly, this Oath was made, at least in this Article, to God only: to say the Scots were parties in the first Article hath some colour, but not in the second; for what were they concerned in our Government, while it was covenanted, not to meddle with theirs?

(However, both the parties promised what they had no power or right to do, as I suppose is now past the Controversie with both Nations?)

And, my dear Brethren in the Ministry of the Gospel, let me seriously request you to consider; that though for your Oaths sake you ought to quit your own interest, yet the Churches, or the States you cannot. Pray satisfy yourselves in this one thing.

1. Before you lay down; who gave you power to expose your selves to an incapacity of serving God and his Church in your high and holy calling, and give her up to the hazards and ruines you say you foresee, by covenanting against that, which is now made, (as you know) by Law, the condition of your station, and discharge of your Office?

2. 'Twas the sentence of a learned Presbyterian, that the Edification of the Church

## The present Case

*Church must proceed as providence makes way.* And who hath warranted you to plead your Covenant (in things not necessary) for the obstruction of it?

3. Ask your selves, was not the Law of God, requiring all that should be receiv'd into the Office of the Ministers, to Preach the Gospel, to be a faithful Steward of the Mysteries of God, to Watch for Souls, in a constant distribution of all Ordinances to their several Congregations; ask your selves, I say, were not these Laws of force before your Covenant? how comes it to pass then, that you plead your Covenant to the voiding of them? in such things too, as certainly are no conditions of Gods commands?

### CASE XVIII.

*Whether the matter of the Covenant be not sinfull; though taken and imposed by the two Houses of Parliament?*

Resol.

**H**itherto we have considered the Covenanters as so many private and

and single persons: and found, that it is not lawful for such to endeavour a change of Church-Government against the Law.

2. Let us now look on them as united: and examine, what validity that adds to the Covenant, or what legality to such endeavours.

3. It is said, and much insisted on, that the two Houses of Parliament, and the generality of the people took the Covenant.

But indeed, though this may much alleviate the fault of the vulgar and particular private persons: in the gross, it adds weight to the transgression: for so great a body of Covenanters, without their head, casts no shadow upon that action, other then to darken and put out all colour of lawfulness.

4. Had a private company of persons entered into a private League among themselves, to endeavour to extirpate Episcopacy; it had not been neer so dangerous, nor their endeavour to perform it, in likelihood, so open and seditious, and destructive to the publick.

5. But so great a body, made up of Members of all sorts (but the head to guide them and warrant their Actions) and

*The present Case*

and all engaging by a *Solemn publick Oath*, to their *power*, in their *places*, with their *Lives, Estates* (as the *Covenant* expresseth it) to extirpate the *Government* of the *Church*. I cannot but witness, that indeed, *here lay the Emnency of Sedition*.

Hence a *Lawyer*; in his *place*, is sworn to *plead*; a *Member of Parliament* to *Vote*; a *Minister* to *Preach*; a *Souldier* to *Fight*; a *Country-man* to *contribute*; and all to their *power*, and with their *Lives and Estates*, and the utmost hazard of them, against that *Government*, though established by *Law*; against the express minde of the *King*: and though also the *power* imposing were in *actual Arms* against the *King*, even when they imposed it, and the people took it.

6. Thus every one, as related to the *body*, was an *Actor* in every ones part: and no doubt, every one that did but contribute as a *Covenanter*, did *Counsel*, *Vote*, *Preach*, and *Fight*, against *Law* and *Government*, not to say, the *King*.

7. And if any person that was then *zealous* for the *Covenant* would speak freely, he would easily resolve

us, that he meant more when he took it, then to endeavour in his place, in Master Croston's and the Author of the *Covenanters Plea's*, Modern sence.

8. Indeed, the work and business of the Covenant, as all ingenuous Covenanters must needs confels, and be humbled for, was too too apparent to be this, viz. to engage the Nation, to extirpate Episcopacy, and to endeavour in such a manner, as though they knew the King would not consent at present, yet vi & armis they would force him to it, or at least do it without him.

9. Nothing can be more clear, though nothing can be more sad and doleful to remember, if the primitive meaning of the words, in our places, in the Covenant was any thing at all, it was only to keep the people from turbulency and confusion among themselves; and not at all to hinder them from rising up in Arms against the King and his Army, or at least the Kings Army; the visible way they took, to performe their Covenant, and extirpate Prelacy.

20. But I take no delight to recover the memory of these things; as the Law hath

## The present Case.

hath pardoned them; so I hope, my Brethren have seen the folly and madness, and sin of them; and are truly ashamed to remember them. I also crave pardon of my Reader for the mention of them, with this true Apology, that my Argument forced me to it.

But we will leave the fact, and inquire after the *ius*, viz.

### CASE XIX.

*Whether the two Houses, without the King, could bind themselves and the people of these Kingdoms, with an Oath, to endeavour the alteration of Church-Government.*

#### Resol.

**I**t will easily appear they could not, by a few Propositions.

1. The King is *caput communis*; and no Act can pass, or Law be made, to bind the people, without his fiat; the Laws are therefore called the Kings Laws, and said to be Enacted by the Kings most Excellent Majesty; indeed not with-

without the consent of the *Lords* and *Commons*, &c the Authority of the *same*.

The Excellent Bishop so often mentioned concludes and proves at large the *Power Legislative* to be a *Power Autocratical*, and gives a sad memento to some, that the wild notion of *Co-ordinate power* is a ridiculous invention; and that such as received it, by this gross *Sophisme*, became guilty of the foulest perjury; for by it they *Acknowledge* and constitute a power equal to him in the Kingdom, whom, in expresse terms, they have sworn to be the only *Supream power* in the Kingdom.

Secondly, the King is the *Fountain* of all *Justice*, as well as *Law*, (as the *Law* it self acknowledgeth) and hath the execution of the *Law* first in himself, from whom all *Officers*, as subordinate, derive their very *Office*, as well as power of execution.

Thirdly, the Government of the Church *Prop. 3* cannot be altered, except the *Laws* be alter'd, nor yet without *Uncommissioning* the Kings *Officers*, as all *Ecclesiastical Governors* are. Neither of which may lawfully be done without the King.

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Prop. 4.

Therefore, Fourthly, The altering of Church-Government, both as it requires a change of the Law, or an Uncommiffioning the Kings Officers, *est res qua Regis potestati fubjicitur*, in a very high and eminent manner; and by fair consequence, according to the Rule held undifputable by all Cafuists, neither Parliament, nor people, nor both together, can be bound to endeavour the Alteration of the Government of the Church, without this condition; *Si Regis etiam placuerit*, If it shall also please the King.

Which pleasure of the King to alter any thing settled by Law, must not be in private, or in a private manner expressed, but in a Regal Act, when His two Houses present him with a Bill to that purpose; otherwise the Laws are still the same, and our Obligation to them, especially for the ratifying any Act or Undertaking of Parliament, as the Case is here; but all the world knows this was never done; and thereupon according to the Rule, the Obligation of the Covenant ceased immediately.

Prop. 5.

No Act of one Parliaments can bind all future Parliaments nor to meddle with



with any thing that is within the power of Parliament; such an *Act*, as before was shewed, is void in it self; much less could that *Ordinance* of Parliament about the *Covenant* survive *that Parliament*, and supersede the power of all future Parliaments, to restore and establish Episcopal Government.

Neither could they binde themselves, or the people, absolutely, and for ever, thus to endeavour, without breach of the priviledges of all future Parliaments without this condition, [*If they should also like and approve it:*] and that such endeavours should never be forbidden by King and Parliament, in any future Law to the contrary: but that is now done, & *datur irritatio Juramenti*, and the Covenant is voided in that point.

Thus we are at length got over the great *stone of stumbling*, the *Obligation of the Covenant*; only, a weak mistake of two, about this part of the Declaration, remains to be discovered, and we shall pass on.

*Obj.* It is said, that many things in the Covenant are *morally good*, and how then can we abjure it?

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*Answ.*

## The present Case

*Ans.* 1. My dear Brethren, pray spare such hard words ; you know the word [*Abjure*] is not in the Act, and therefore should not be used by men of conscience, to the trouble of their Brethren, and the more ignorant or inconsiderate part of the people.

2. We are not called to *swear* at all, much less to *abjure* or *unswear*, as some too scornfully, yet too frequently, as well as falsely, love to speak; which is comely in none, much less *Ministers*, especially such as expect persecution.

3. Neither are you required to declare against any thing that is good in the Covenant, or that is not evil ; or rather against nothing either good or evil in the Covenant, directly, only by consequence ; for we are only to declare, that it doth not bind to endeavour to alter the Government either of Church or State ; which seeing it cannot be done without breach of the Laws, we have found to be sinful ; and therefore it is *inhabilis ad Obligationem producendam*.

4. If any do hold that they are bound by

by that Covenant to be more loyal and faithful to the King, and to reform their own lives, &c. the Act doth not say that they must hold or declare the contrary.

5. We read it under the Royal hand: *I willingly forgive such mens taking the Covenant, who keep within such bounds of Piety, Law and Loyalty, as can never hurt either the Church, my self, or the publick peace, ——— against which no mans Lawful Calling can engage him.*

*Object,*

But why should we, or how can we declare for others? do we know anothers Conscience, or how far he is bound? —

*Answ.*

1. This Complaint ariseth also from mistake: as if we were called to declare what other men think or hold of the Covenant; whereas indeed, we are not required to trouble our selves, whether others think or hold themselves bound by it or no: but to declare what we our selves think or hold: not, that others are not bound by the Covenant at all, as before, but so far only, as not to be troublers of peace, or enemies to Government.

2, Now if *this* be unlawful (as hath methinks appeared sufficiently, ) *neque tenetur ad illicitum* : neither we nor any other are obliged unto it : and if it be a breach of the *Act*, not so to declare : we are also to declare, as we are required, that we hold there lies *No Obligation* upon our selves, or any other person, by virtue of that Oath called the *Covenant*, to indentour any change or alteration of the *Government*, either of Church or State.

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### CASE XX.

*Whether it be lawful to declare, that the Covenant was in it self an Unlawful Oath.*

Resol.

1. **WE** are come to the second Branch of the Declaration, touching the *Covenant*, that the *Covenant* was in it self an unlawful Oath.

2. I shall not flie to the following words, which may be *Exegetical* of these, to prove it so, viz. because it

was

was imposed against the Laws and Liberties of this Kingdom, but allow that phrase *unlawful in it self* to carry more in it, then the bare illegality of the Imposition.

3. Indeed, if it be granted, that it was *unlawful in the Imposition*, as the boldest writers for Obligation of the Covenant do not deny; this unavoidably draws on another kind of illegality, on the takers part: for if it was unlawful in the imposing, 'twas much more so, in the taking of it; it is unreasonable to imagine that the Common people had any more warrant thus to swear in a publick Covenant, about matters of publick concernment, without the consent of the King, then the two houses had, to require it of them:

4. And though it will not follow, that the Covenant is not obliging meerly because it was sinfully enjoyned, or sinfully taken; it will follow, against all Contradiction, that a Covenant illegally taken is even therefore an *unlawful Oath*, and that is the thing we are here called to declare.

5. That is no more then this, that the

peoples covenāting in so numerous a body, in so publique a manner, and about matters of so publique concernment, without and against the minde of their King, is an *unlawful Act*: and though the matter of the Covenant could not have been proved to be *unlawful*, yet thus it is properly, because *formally an unlawful Oath*.

Therefore, it is worth the heeding, for the satisfaction of such a scruple, that the *Act* doth not call us to declare, that the Covenant was in it self *unlawful* (as some too carelessly say it doth), that might have seemed to reflect upon the matter of the Covenant: but that it is, in it self, an *unlawful Oath*, which rather seems to intend the form and manner of it, as a *publique Covenant*, as was now said, taken by a numerous body of Subjects, without and against the mind of their King.

I shall not need to repeat what hath been urged before, to prove the main matter of the Covenant *unlawful*; but I shall seal up this, with that unquestionable Rule of my Lord of Lincoln, who pleaseth to acknowledg, that sometimes though the *pactum* be *illicitum*, yet res  
*pacta*

*patia licet*: the things sworn may be lawful, yet the Oath an unlawful Oath.

### CASE XXI.

*Whether it be lawful to declare that the Covenant was imposed upon the Subjects of this Realm, against the known Laws and Liberties of this Kingdom.*

Resol.

**WE** are now even at our Journeys end, and the sooner, because we hardly met with any rub in our way, in the present Case.

1. I find there is nothing more easily yielded to be unlawful, touching the Covenant, then the imposition of it; and how it can be unlawful in the imposition, except it were imposed contrary to the Laws and Liberties of the Kingdom, I cannot apprehend.

2. It is enough, that we read it as a fundamental in the Petition of Right, that it is contrary to the Liberty of the Subject to have an Oath imposed without

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an *Act* of Parliament: and the *Long Parliament* it self, that imposed the *Covenant*, never pretended to make an *Act* of Parliament without the *King*: or if they had done so, it had been to very little purpose, because they had thus pretended to do what they could not do, and acted against the known *Constitution* of the *Kingdom*, as their *successours* did.

3. If it should be said, that the *Oath* made with the *Gibeonites* was against the *Liberties* of the people, and yet it was found to be obliging.

First, we are not here called to declare the *non-obligation* of the *Covenant*, but the *illegal imposition*: yet, seeing we had no occasion to speak unto this *Objection* before, briefly a word or two, now.

2. There is no resemblance betwixt the *Covenant* made with the *Gibeonites*, and the *Covenant* we treat of. That *Covenant* was not imposed on either part; but freely taken, and therefore could not be against the *Liberties* of the people; *volenti non fit injuria*.

3. Besides, the *Text* saith expressly, that



that Joshua made the League with them, who was *Supream*; and all the *Princes* of the *Congregation* swore unto them: whereas, many of our *Princes* did refuse the *Covenant*, yea, for ought we know, most of them; and our Joshua, the *King*, proclaimed against it.

4 Again, that *League* was, to shew too much favour to *strangers*, and enemies: but the *Covenant* indeavours to root out a very considerable part of our own *Nation*.

5. Again, by that *League* there was no *Fundamental*, no *Law* at all violated, no hurt done: by ours, many *Laws* are to be torn in pieces: the *Kings Prerogative*, whose consent was necessary, invaded: the *priviledge* of *Parliament* to make new *Laws*, in things lawful, or establish the old, broken: the *liberties* of the people, in being imposed on, with the *Covenant*, without an *Act* of *Parliament*, and having so many *societies* of *Ecclesiastical* persons destroyed, plainly subverted.

6. Indeed, nothing can be said, why the *Oath* made in favour of the *Gibeonites* by Joshua, the *King*, and all the *Princes* and people, should not oblige: and

2 Sam. 21.

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and nothing can be said, why the Covenant made with *hatred* of the *Bishops*, for their injury and ruine, by a part of the *Parliament* and *People*, without, and against the *King* and the *Laws*, when (contrary to the very Constitution of the Land) there were none to represent them in *either House*; nothing I say, can reasonably be said, why such a Covenant, so far at least, should *binde at all*. One may be bound to do the good he hath sworn, so was *Joshua*, &c. to the *Gibeonites*; one cannot be bound to do the evil he hath sworn, as the Covenant would have him.

7. *Israel* was cheated into a Covenant, that hurt none but themselves, if themselves at all; and therefore their Covenant obliged them: *England*, that is, a great part of it, was also cheated (pardon the expression) into a Covenant that injured the *Takers*, and every body else; the *King*, the *Parliament* that made it, all future *Parliaments*, the *Liberties* of the people, the *Governours* and *Government* of the Church, yea, and *God* himself, and the *Consciences* and *Souls* of the *Takers* themselves, (by breaking the

the *bonds* of all former obligations upon them, to the contrary ; ) as in particular hath before appeared ; and how then can it bind to so much iniquity ?

I need say no more to *this* or other instances of *Zedekiah's Oath*, &c. or, I presume, to this *Argument* of the *Declarations*, that hath indeed engaged me longer then at first I foresaw.

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*A general Conclusion, touching the Lawfulness of Re-ordination, and the Government, Liturgy and Ceremonies of the Church of England.*

**T**Here is but one thing more, in the condition of *Law*, required of *Ministers*, by the *Act of Uniformity* ; *Re-ordination* of such as are *only* Ordained already by *Presbyters* ; and *Ordination* of such as are not, by *Bishops*. I hope, such as are concerned herein, will not stand too much

# The Conclusion.

much upon this, considering, that liberty is not denied them, to keep their own sence, whether the Ordination by Presbyters only is valid, or not: also that the Act makes it self no judge of the Ordination by Presbyters in foreign Churches: also, that there is no other way, according to the Law of the Land to exercise their Ministry in this Church; as also, that if their former Ordination should be confirmed by any other form, it could not pass for legal Ordination in this Church or Nation: nor legally intitle them to the care of souls, or to the profits of their places; no other being thought fit to be appointed, or allowed by our Governours; and therefore their submission thereunto cannot be a taking Gods name in vain, which hath so good and so necessary an end; but especially considering, that worthy M. Humphery hath written so effectually and so largely already, upon this Subject.

He hath so well prevented my pains herein, I have only to refer my Brethren to his Books, for their full satisfaction in this point.

2. Concerning that which I have written,

Written, in this *Treatise*, give me leave to *subscribe* (which I do, *ex animo*) that I have not used *one* Argument, but I really judge it *convincing*, and such as is not, either, *answered* or *prevented* by any thing written either by Mr. *Crofton*. on the learned and sober *Author* of the *Covenanters Plea*.

3. Neither can I divine, what may possibly be urged against the *Declarations*, that is not *answered*; except only the *unlawfulness* of the *Government*, *Liturgie*, or *Ceremonies*, of the *Church*: all which are indeed *concerned* in the *Declarations* required:

4. I confess, I took the *lawfulness* of these in *themselves* for granted, and my reason I hinted at the *beginning* of my *book*, namely, because I was to *treat* *such* only, or chiefly, with it, as had purposed to *conform*, had not the *Act* required them thus to *declare*: such I conceived, did not believe the *Government* of the *Church*, or any *Office* or *Ceremony* of the *Common-Prayer Book*, was in it self *unlawful*: who by their *Conformity* intended before, to *own* the *one*, and *praise* the *other*.

5. How-

5. However, let me humbly beseech my Brethren, (if thus they scruple) seriously to Consider, that the ablest Pens, that ever Engaged in these great Controversies, have hitherto found it a task too difficult for them, to evince, that either the form of Government, or any thing required in our Liturgy, is in it self unlawful.

6. Yea, give me leave to make my Observation, that very few that have been Learned, and Sober, and Faithful in the point, since the Reformation, to the beginning of our late Troubles, but (though they have much scrupled at first) have argued themselves at length into a Conviction, at least of the lawfulness of them.

7. I hope my Brethren will not take it amiss, if I offer to remember them, that Conscience is not *Regula Regulans* (in the first Consideration, though so in the second) but *Regula Regulata*: and that she hath a Rule above her, that must be a Rule unto her, and the very Synterisis and Proposition, from which alone she must draw and conclude all her definitions of things lawful or unlawful.

8. The measure therefore of the Judge-

*Judgment of Conscience*, is the *mind* of *God* and not our *own*: Not our *own* *mind*, much less our *will*. So that, what *he* *commands*, must be held a *Duty*; what *he* *forbids*, must be held a *sin*; and what *he* neither *commands* nor *forbids*, must be held *indifferent*: that is, in it self, to be neither a *Duty* nor a *Sin*, by every well *enlightned*, rightly *ruled*, and *Indifferent Conscience*.

9. Now, if it be a *doubt* to any mans *Conscience* what is left by *God* *indifferent*, that is, what he hath neither *commanded* and made a *Duty*, nor *forbidden* and made a *Sin*; what remains, but that he follow the advice of our *Saviour*, and *search the Scriptures*? these, we may be sure are the *best Rule of Conscience*, as the *clearest Testimony of Gods Mind*.

10. If yet the *doubt* continue, what *God* hath left *indifferent* in the *Scriptures* themselves, suffer me to say, that it is not *possible* that there should be a *better help under heaven* for the removal of it, besides *immediate Revelation* (which may not be expected) then the *Judgment of the Primitive and Reformed Churches*.

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11. Let the person, then, that desires satisfaction indeed, bring his Conscience, and the great things in question, first, to the Bar and Rule of Scripture; and if he cannot see them condemned there (as truly I cannot) let him in the fear of the Lord, and the sincerity of his heart, after Truth and Peace, yet prosecute his full satisfaction, by repairing unto, and duely examining, first, what Opinion the Primitive Churches, (as soon as they took notice of these things in Controversie,) had of them: and then also, ask the judgment of the most eminent Reformed Divines; they have freely signified the same upon all occasions in their writings ever since the Reformation.

Now, if it be unquestionably found, that both the Primitive and Reformed Churches have unanimously testified, That they believe the things now in Controversie with us are not forbidden by God, but that they are at least of an Indifferent Nature, and may lawfully be used; Who art thou, O Man, that repliest? or darrest say, they are unlawful

FINIS





An Addition to the first Impression, by way of Supplement to the two great Cases touching the *Inexpediency* and *unlawfulness* of things imposed.

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I. *Touching the Doctrine of Expediency.*

**L**Est the Doctrine of *Expediency* should yet remain under the cloud of any exception, I have thought good to ~~add~~ a few things for the farther clearing of it, in Answer to the only material *Objection* against it.

It may be said, *quod non expedit non licet*: and if that which is not expedient be not *lawful*, then it may not be pra-

cticed upon any pretence ; for we must not do *evil*, that *good* come.

In *Answer* hereunto, I crave leave to distinguish : for things are *unlawful*, or *evil*, *in specie*, or *in genere*, *only*.

*Ans.* That I call *unlawful in specie*, which is *in it self*, without respect to its *circumstances*, prohibited by some *special Law*, *natural* or *positive*, as *Theft*, *Murder*, *Profaning the Lords day*, &c. now things simply, *inexpedient*, cannot be thought *unlawful* in *this* sence, they being granted on all hands to be in themselves *indifferent*.

That is *unlawful*, or *evil in genere only*, (on the other hand) that is not the *transgression* of any *special Law* of *Nature* or *Scripture*; but by reason of some *accident*, or outward respect, *circumstance*, or *consequence*, (for the sake of which, the thing becomes forbidden) is *unlawful* by some *general Rule* of *Decency*, *Order*, *Custom*, or the like.

Thus onely are things *inexpedient*, *unlawful* or *evil* : not in *themselves*, but from their *circumstances*; not in their *Natures*, but *accidentally*; not as *violations* of a *special*, but of a *general Law*

Law of God. So that, if the *inexpediency* of such a thing, for which alone it is prohibited, be either severed from it, or over-ballanced, it becomes repugnant to no Law at all; and consequently, the evil and unlawfulness is, in such a case, removed. Mr. Calvin, *Institut. li. 4. c. 11. 31.* gives us some instances of this, shortly, and smartly; *Quid? an in Muliere Carbasso sita Religio est, ut nudo capite egredi sit nefas? an sanctum de ejus silentio decretum, quod violare sine summo scelere non possit? an aliquid in genuflexione, inhumando cadavere mysterium, quod prateriri sine piaculo non possit? minime. — Sed est Nihilominus in istis rebus quod agendum aut cavendum mos regionis, instituta ipsa denique humanitas, & modestia regula dicet.*

For, that which by reason of circumstances only, is evil or unlawful, is so only accidentally, and may be not immutably so: and that which is evil by accident, in one respect, may be good, yea, better in another; now if circumstances may on the other hand, the thing that at first seemed otherwise, may thus prove expedient; and by the very reason of this Objection, lawful. L 3 Yea,

Yea, admit that *some* respects do render it *inexpedient*; yet, if *more* and *greater* render it *expedient*; it thus becomes *more* expedient, then *inexpedient*; and the *over-balance* of expediency, concluding the Case (according to *Polanus* his Golden Rule,) the *inexpediency* must yield it self; and the thing proceeds in *such* an instance of practice, to be *expedient* & ought to be done. For, suppose the thing must either be done, or left *undone*: and it is *inexpedient*, all things considered, to leave it *undone*, then it is *expedient*, and consequently *necessary*, to be done.

We must not do *evil* to obtain *good*; yet we must do *good*, to prevent *evil*, though the thing be *good* for nothing else. Things that are *expedient* are therefore *good*, [It seemeth good to us] and therefore *necessary*. [These necessary things] whence those very things, which we are afraid to do, because *inexpedient*, may possibly be our *duty* to do, because *expedient*.

The *summe* is, things with respect to expediency and inexpediency fall under a *double* consideration. And such things

things as in their *first* consideration are *inexpedient*, may in some *second* respects be both *lawful*, *expedient*, and *necessary* to be done.

Now, whatsoever *censure* the *reason* given of it may conflict with; I dare say, the *Proposition* it self was hardly ever before opposed; and I would fain hope it is not now.

No doubt, the *Apostles* knew very well, that a refusing to eat things *strangled*, and *blood*, at that period of time, especially by a *Law* to enjoyn it, carried, in the *first* consideration of it, no small *inconvenience*, as is easily judged from the rest of their *Writings*; yea, in that very *Law*, they grant they are burthens (*no other Burthen*) yet to prevent greater inconveniences, (the *Apostacy* of the *Jews*, the *interruption* of the *Gospel*, &c.) it seemed good unto them, yea, necessary so to do.

*St. Cyprians* Rule is *Catholick*; we *Just. 4.* either find it, or some *Allusion* to it, 123 11. almost every where. *Calvin*, amongst others, cites and seals it, and my *Conclusion* with it. *Misericorditer igitur corripia: homo: quod autem non potest,*

*patienter ferat, & cum delectatione gomat  
atque lugeat.*

Vid. Aug. St. *Ambrose* his advice to St. *Augustine's* Mother, *That she should conform*  
Epist. 6. *to the usages of every Church where she*  
Casula: *came, (which St. Augustine received as*  
prope si- *an Oracle from God,) must needs in-*  
nem, & *duge my proposition; unless every usage*  
Epist. Ja- *in the several Churches where she might*  
nuar. 119. *possibly come, were exactly squared to*  
*the strict Idea of fitness and expedi-*  
*ency in the Matron's Mind, which can*  
*hardly be imagined.*

*Servilibus* And Saint *Augustine* himself was in  
*oneribus* our very *Case*; tis known, he was much  
*premunt* troubled at the *multitude* of Cere-  
*ut tolerabi-* nies in his Time; and heavily com-  
*lior sit* plains of them as a burthen, nay, a *bon-*  
*conditio* dage, to the Church; a bondage worse  
*Subaorum.* then *Jewish*; yet who ever found him  
Januar. symbolizing with *Donatists*, or in the  
Epist. 119. least to encourage any man for any *such*  
*Ecclesia* cause, to break the *Union* and Peace of  
---multa the Church by *Separation*? yea, he  
tolerat. was the *Captain* of the Hosts of the  
ibid. Lord, against all appearances of such  
*Schisme.*

Most of the Forreign Reformed Divines have not onely asserted, but applied the Rule to our very Case, (and therefore the rather to be heeded) and have, *de industriâ*, given their advice, from the present principle, touching Conformity in England: and what do they say in it? do they not either approve our usages, or dislike them onely as inconvenient? and those they dislike as inconvenient, do they not, notwithstanding their inconvenience, yet earnestly perswade to Conformity to them? and what is it that moves them so severely to admonish them against Non-Conformity, but a sad prospect of greater inconveniencies, the *disquiet* of the Church, the provoking of our Governours, and the laying aside the work of the Gospel.

If Unacquaintance with these worthy men cause any to doubt or suspect this truth, I humbly beg them, thoroughly to examine it, especially in the discourse of the Troubles at Franckesford, and those weighty papers of Bucer, Peter Martyr, &c. to Bishop Hooper, Cranmer, Greendal, &c. about this very Controversie. If you read the other disputes,

disputes, and occasional advices of Calvin, Zanchy, Polanus, Alefius, Beza, Saraviv, Hemingius, Bucanus, Bullinger, Zeppernus, Paraus, Arelin, and the rest of that golden number; they all consent (except Illiricus) in the sweetest harmony, as one man, that for some Inconveniencies imposed on us, we ought not to quit the Office of the Ministry, or hazard the Church.

Illiricus, that only eminent foreign Divine in his Age against Conformity, had this Apology beyond us; that the Interim, full of Popish errors, was then by Charles the Fifth imposed upon Germany. Yet notwithstanding all his other excellencies, what a horrid Character Melancton, yea and Beza himself, gives of him and his cause: but what was his crime? he hotly persuaded all the Ministers to lay down

Bez. in their Ministry rather than conform;  
vit. Calv. which occasioned so many Tumults, that  
an 540.

Beza complains he promoted Popery, as if he had been hired by the Pope of Rome; and indeed, deserved that black name which a sober Historian gives him. *Matthias Flaccius, homo vehemens;*



*Et quocunque loco pedem figerat, accitimus Turbarum inventor.*

Notwithstanding, therefore, these heats of *Miricus* and his furious followers, it will be their Joy and Crown, at last, that can truly say, with *Lambertus*, *Nil novi attuli, sed antiquam & receptam Doctrinam, &c.* I have brought in nothing new, but the old and received Doctrine of the Scriptures, the Fathers, and the general part of Modern Divines, which my Conscience; yea, these my Eyes bearing me witness, I can safely do.

When I read that imprudent, yea impudent saying of *Miricus*, branded by *Melancthon*, viz. that rather than Conformity should be yielded, Desolation should be made in the Church, and that Princes are to be frighted with the terror of Insurrection, I find my self carried yet more to the contrary; and the more enamoured with the sober, safe and peaceable counsel of *Melancthon*, and his Brethren, in the present Conclusion.

Yet I must needs confess, that the Fruit and profit which the Church hath reaped

reaped from this Rule, [that we lought rather to conform to some things inexpedient, then to lay down our Ministry] the Fruit, I say, hereof hath more deeply affected me, then any hurt or danger of the contrary, which haply may not be impertinent briefly to touch.

The Ministers of Suevia (as Melancton tells us) would not conform to the use of the Surplice, but rather chose to lay down their Ministry; but Melancton and Pomeranus, even by the force of this very Principle, that we ought to conform to some inconveniencies, rather then to leave our Ministry, recovered most of the Ministers of Marquess Albertus Dominions, to a peaceable mind, and due Conformity.

Conc. Melanct.  
p. 2.  
fol. 91.

By the same Argument Calvin quieted the Church at Geneva, when all in an uproar about the Wafer-cake: he told them to this effect, that the thing was in it self indifferent; and for its inconvenience they ought not to breake, and hazard the Church. Generally, by this alone, he argued both Ministers and People, that scrupled at it, to conformity again.

Neither

Neither have we been altogether without some fruit of this Doctrine in England: indeed the most eminent Non-conformists here have known its power.

Bishop Hooper, for not practising, and for preaching against conformity, was convened before the High Commission, and imprisoned; yet at length, did conform himself: But by what means? why, at length by the pains of *Bucer*, *Peter Martyr*, and *Calvin*, he became convinced of *this truth* (that we ought not to stick at an inconvenience, to the prejudice of the Church) and then the work was done.

By virtue of the *same* principle, were a while after, *Dr. Humphery*, *Dr. Reynolds*, *Dr. Sparkes*, *Dr. Chaloner*, *Dr. Ayray*, *Mr. Chaderton*, and *Mr. Kenwstubs*, all very eminent, after a long reluctancy, at last subdued, and reduced to conformity.

In later time, *Mr. Sprint*, after he had shewn much opposition, hath with more learning, soberness, and industry, testified to the world, that he was prevailed upon by the *same* Consideration:  
the

the very Title of his Book is, *the necessity of Conformity in cases of Deprivation*: he also assures us, in the *Epistle* to his Book, that by the *same* Argument, many others had received satisfaction from him, and doubts not but many more would.

Give me leave to assure, that *this* Principle may have life and vigour still: I mean, not in *itself*, for so it is *Moral*, perpetual, and eternal; but in the *minds* of *sober* men. And that when the *Tempest* is over, and the thoughts of people a little more *Calmed*, my Brethren may discern this truth more *clearly*, and reap the *peaceable fruits* of it, (which, our good God, the God of *peace*, in mercy to this poor Church, grant) yea, I hope I perceive some *blossoms* to appear already: *great is the truth, and will prevail.*



*A Supplement to the Case,  
touching the Imposition of  
things unlawful.*

**I**T is well known, that very *Pious* and *Learned* men have ventured much further in this Argument: boldly asserting, that things not *only* inconvenient and unlawful in *genere*, but *more directly* sinful, even against particular Scripture, may lawfully be done in *some* Emergencies, and Cases of *Necessity*.

Neither can it be denied, but that we often finde in the *Scripture* it self, particular commands over-ruled by a more general Law of necessity; and then, doubtless, the general warrant grants a *Supersedeas* against particular obligation: and in such a Case it is *not* sinful, not to fulfill a particular command, but rather a clear obedience to God (who in the instance, takes off the force

force of the *particular*) in his *more general Law*.

Mat. 12. 2,  
3, 4, 5.

Thus the breakers of the *Sabbath* broke a *particular* command, yet breaking the *particular*, in obedience to the *general* rule of *necessity*, they do not do *evil*, that *good* may come, but are reckoned *blameless*, and called *Innocent*. Thus also the *particular* Text tells us expressly, that it is *unlawful* for any, save the *Priests* onely, to eat the *Shew-bread*: yet in a streight, the *general* rule of *necessity* warrants, not onely *David*, but those also that were *with him*, to eat thereof. Upon the same account we must put *Solomon's* upon an *Altar* not appointed, *Hezekiah's* admitting to the *Pasover* the *legally unclean*: and *Paul* his casting the good creatures of God into the *Sea*.

2 Chron. 7  
72.  
2. Chron.  
30. 17, to  
21.  
Act. 17. 30

Yet we must still carefully distinguish betwixt things that are *internally*, *Materially*, and *Naturally evil*: and such things as are onely *extrinsically evil*, or *unlawful*, onely by virtue of *positive prohibitions* in *Scripture*. For what hath been said I intend onely to the *latter* branch, *viz.* such things as  
are

are evil only *from without*, and by virtue of Gods *positive* precept: for such things as are *Intrinsically* and *Materially* evil, you have had my opinion about them already in the *former Treatise*.

If it be well heeded, though a general rule may, in case of *necessity*, discharge us from present attendance upon the proper duties of the *Lords Day*: the *Ceremonial* and *external* parts of worship; yet no necessity that I can find will excuse wholly either *Robbery*, *Adultery*, *Murther*, &c. things *Morally* and *Materially* evil, and therefore *Immutabiliter mala*, immutably evil: at least, without some thing more than a general Rule, *viz.* a *special personal* warrant; as the *Israelites* had, to take the goods of the *Egyptians*; and *Abraham*, to slay his Son *Isaac*:

Mark the opposition; *I will have mercy, and not sacrifice*; the *positive* yields to the *Natural* and *Moral* duty; the *less necessary* to the more *necessary*, the *less* to the *greater*.

Yet, in *such a case*, see here is a *command* too [*I will*] and this both *affirmative*, [*I will have mercy.*] And

M

Nega-

*Negative; [Not sacrifice.]* No doubt, wherever God can have both he will; but where he cannot, he will have *mercy*, though he lose *sacrifice*; Yea, rather than lose *mercy*, he will have no sacrifice, he prohibits sacrifice, in such a case even prayer is turned into sin, and sacrifice is an abomination.

But what is this *mercy* that the God of heaven so highly values, and so strictly chargeth above his own service? Truly, I can hardly think on it without wonder, or write it without astonishment: it is instanced by our Saviour, in *mercy*, not only to men, but to beasts; even sacrifice to the high God must give way to *mercy* to our beast: Yet may we hence have our wonder, that the Scripture saw reason to prefix that *Item, Go and learn what that meaneth*; as if little understood, and less practised: *Go and learn what that meaneth, I will have mercy, and not sacrifice.*

Is *mercy* to our beast so highly prized? how much more is *mercy* to our selves, to our Nation, to the Church, and to the souls of our people? Is *mercy* to a beast to take place of sacrifice to God?



God? how precious is mercy to all these, when it meets with sacrifice, and supports the Altar? And when, if we will not have both together, we can have neither, how much more desirable is it to God and man to have mercy and piety kiss each other, than to throw away charity and duty together? which God forbid.

But pardon my digression, and I shall add but one instance more of this nature, and hasten to conclude with *Apology*. It is indeed a great one, and much more insisted on than all the rest, by reason that the practice was more general, and the nature of it more applicable. It is that famous Apostolical usage of the Jewish Ceremonies after Christs Resurrection, and the first Christians following them, at least in some of them, viz. abstaining from blood, and things strangled (till St. Augustines time) for the space of neer four hundred years after.

Do not all consent, that those Jewish Ceremonies, even when the Apostles used them, (viz. Circumcision, Shaving,

*Vowing, Purifying, Abstaining from blood and things strangled, (which two last they also imposed by a general Decree,) I say, Do not even all consent, that these were truly mortua (though not mortifera) dead with Christ, and buried in his grave, and rendered unlawfull to the Christian Churches, by virtue of the consequence of his Resurrection?*

*Act. 15. 10. yea, in other cases, the use of them is directly reprov'd, as needlesse shadows, Ordinances of the World, Commandments of men that turned from the truth, and weak and beggarly rudiments.*

*Yet, now, in a second Consideration, they are occasionally approved, as good and necessary, and accordingly, as already we have said, some of them imposed, and many of them practis'd, by those great examples. The ends, indeed, moving thereunto were most weighty, viz. the Unity of Brethren, Winning Souls, the Propagation of the Gospel, the prevention of Scandal, and the danger of the Ministry through persecution.*

*Calvin is peremptory, Non licuisset, saith*

saith he, it had not been lawful for be- Act. 16.3.  
 lievers to have retained those Ceremo- Act. 21.22.  
 nies, except they had made for Edifica- 24, 27, 28.  
 tion, yet boldly addes, *licuit*, it was law- In Acts 2.  
 ful for Paul to circumcise Timothy. 23. citing,  
1 Cor. 9.

Zanchy, and Peter Martyr, to name 20.  
 no more, come neer to us in their appli-  
 cation. Peter Martyr saith, that without  
 Controversie, the abstaining from bloud Loc.com.  
 and things strangled were Aaronical; yet fol. 1087.  
 defends that Apostolical injunction, for Hoopers.  
 peace, and the better conviction of be-  
 lievers: and thence, the Surplice.

Zanchy saith, the forbidding of things In Phil. 1.  
 strangled and bloud, smelt of Jewish su- fol. 45.6.  
 perstition: and that Pauls vow, and pu-  
 rifying, were hay and stubble at that  
 time. Yet he approves them for love  
 and peace sake: and thence perswadeth  
 Ministers, threatened by Authority, to use  
 such Ceremonies as are hay and stub-  
 ble, rather than to lose their Ministry.  
 He concludes from this great Pre-  
 cent, *Ergo multa toleranda Ministris,*  
*ne pax scindatur Ecclesiarum, &c.* there-  
 fore many things are to be born by  
 Ministers for the Churches peace, and  
 to avoid scandals, if they be neither

such things, nor *Doctrines* as strike at the *Foundation*.

But I forbear to *enlarge*, or *apply* this Argument, lest peradventure I be mistaken to charge my *Brethren* with too *hard* thoughts of our Churches *Impositions*; or be thought, my self, to be too *friendly* to any thing that's *sinful*; which God forbid.

I confess, it is a very *tender* point; and to be touched gently, both in *Doctrine* and *Use*; but though I cannot be so *uncharitable* as to fear our *Church* will try us with it; or, that it is the *case* of many of my *Brethren*, in their own judgments; and lastly, though I dare not say, how far I should venture in my own *practice* upon this *principle*; yet, I *freely* consent to the *truth* of it: neither can I *question* it, till I shall see the foresaid *Scriptures* better answered then I have yet done.

Yea, I do firmly perswade my self, that where there is only a *Doubt* concerning such unlawfulness of any thing enjoyed, much encouragement to a readier obedience may justly be drawn from a prudent pondering the *Premises*.

*Laud Deo, Ecclesæ Pax.*

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**F I N I S.**

**R**ecensui tractatum hunc, cui  
*Finitus, The Grand Case.*  
*Grande, quidem opus, si quod intendit*  
*efficiat.*

Sextilis II°.

1662.

M. Frank. S. T. P.  
 R. P. D. Ep° Lond.  
 à Sacris Domest.



**T**Here is Extant an Excellent Piece  
Entituled. *Some Necessary and Sea-  
sonable Cases of Conscience* about things  
*Indifferent* in Matters of Religion,  
*Briefly*, yet *faithfully* stated and resol-  
ved, wherein the just bounds of *Im-  
posing* on one hand, and of *Obeying* on  
the other, are truly *Fixed*; By the  
same Hand: Sold by *Tho. Dring*, at  
the *George* in *Fleet-street*, neer *Cliffords*  
*Inn*, 1662.

